

TORTURE

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SRI LANKA

What went WRONG?



EXCLUSIVE INTERVIEW

DARIUS REJALI

AUTHOR OF 'DEMOCRACY AND TORTURE'

CHAPTER VII 35. (1)

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(THE CONSTITUTION OF THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA)



SRI LANKA

**Executive Presidency is anti-democratic
and it should be abolished**

LET US FORGE THE POLITICAL WILL TO
ERADICATE TORTURE IN ASIA

following are some of the parliamentarians who will
attend the meeting

ASIAN ALLIANCE AGAINST TORTURE
to be held from
23 - 26 July, 2012
in Hong Kong

V. T. Balram
India



Raza Rabbani MP
Pakistan



Saber Hossain
Chowdhury MP
Bangladesh



Raymond Palatino
Philippines



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Sri Lanka



Agni Kharel MP
Nepal



Mohammad
Fazlul Azim MP
Bangladesh



Qamar Zaman
Kaira MP
Pakistan



Pushpa Bhusal MP
Nepal



LET US

- Direct the legal profession towards such a goal
- Render practical assistance to victims of torture
- Push for adequate government funding for the administration of justice



**LET US MAKE IMPUNITY
A THING OF THE PAST**

TORTURE

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EDITORIAL



Illustration by Indika Dissanayake

SRI LANKA: WHAT WENT WRONG?

Torture is a crime. And, this criminal activity, in all its cruel, inhuman, and degrading reality has been increasing in Sri Lanka. This is so, even after the end of the civil war between the State and the Liberation Tigers of Tamil Eelam (LTTE).

There is evidence that various forms of torture existed in the history of the island nation. During the long periods of 'Royal Absolute', torture was a tactic used by the authorities to impose and maintain order. In fact, a whopping 32 types of torture methods were used categorically to punish suspects in front of the public. As one of our contributors has presented here, these torture methods included being trampled by an elephant and being impaled on a pointed iron pole. The prosecution process in the country was thus

rather violent and primitive until 1815, when British colonialists introduced a law against the practice of torture.

In the last hundred years, many laws have been passed and many international conventions have been signed by the government on behalf of the State in acceptance of the prohibition of torture. But torture continues to be practiced widely in Sri Lanka, even today.

The Asian Human Rights Commission (AHRC) has documented more than a thousand cases of torture in Sri Lanka, and it has summarized over 400 police torture cases during the last couple of decades. Most police personnel in Sri Lanka remain ignorant of basic principles and ethics that

they are expected to know, and required to practice, in implementing law and fulfilling duty. The consequence is merciless use of old torture practices in various new forms.

Most police stations in the country have become torture chambers. Here 'suspects' get severely tortured from time to time and deaths in custody are only occasionally reported. Many citizens of Sri Lanka have become victim to these ruthless practices. To our knowledge, such torture is not limited to police stations, but is entrenched in some prisons as well.

In the last week of May, 2012, the US State department issued its critical annual human rights report, which has highlighted existing methods of torture in Sri Lanka. "Former TID (Terrorism Investigation Division) detainees at Boosa Prison in Galle confirmed reports of torture methods used there. These included beatings, often with cricket bats, iron bars, or rubber hoses filled with sand; electric shock; suspending individuals by the wrists or feet in contorted positions; abrading knees across rough cement; burning with metal objects and cigarettes; genital abuse; blows to the ears; asphyxiation with plastic bags containing chili pepper mixed with gasoline; and near-drowning. Detainees reported broken bones and other serious injuries as a result of mistreatment," stated the report.

There have also been frequent media reports over the last few years - about the widely practiced method of white-van abductions, which have given the public much cause for fear and anxiety. The feeling is termed 'the white van syndrome.' It has been reported from Sri Lanka that there are genuine concerns that it is the government that has been involved in some of the abductions.

The widow of one such abductee has revealed details of her experience, which confirm the

prevalence of brutal torture in the country. The case, in summary, goes like this:

Mr. Mohamed Sali Mohamed Niyas, also known as "LokuSeeya", was abducted in a Colombo suburb by an armed gang in a white van, and then taken to an unknown location in the Eastern province, where it is believed he was tortured, killed, and his body dumped into the sea. An apt question is how such an abduction can occur, considering that it involves taking a victim hundred kilometers away from the site of abduction and that the abducting gang would have had to go through at least 5 major security checkpoints. According to the postmortem, LokuSeeya was strangled and his throat slit. Injuries show that he was pounded and pummeled on the head and stabbed a number of times. He was also administered 3 injections of unknown chemicals. His body was found strapped with over 100 kg of weight and bound with barbed wire. That is not all. The body was further covered with polythene and bound some more with chicken fencing (similar to barbed wire). There also appeared to be something like an anchor attached to the body. In spite of all this weight, LokuSeeya's body washed ashore at Akkaraipaththu. From here, it was flown back home for funeral proceedings.

A question: why is torture endemic to the country, even after passage of many laws and the acceptance of numerous conventions against torture? The answer might appear to be a complicated one. However, we must remember that the occurrence of torture is neither accidental nor invisible to the public. It is the result of a long systematic process of social control, which uses old tactics of the powerful and unaccountable, without respect for past or present.

Sri Lanka is unable to develop a system through which not only would torture be

eliminated, but all forms of crimes would reduce, to reflect the kind of evolved civilization that we claim we are. The sad part is that these primitive practices of torture are being used as tools of social control. Even the electoral process has become cynical manipulation by those who appear to have absolute power; i.e. a site of hollow democracy where authentic dissent has little space to make its presence felt. It is perhaps naiveté on the part of the citizens that accept this space as one through which justice can be achieved and violence reduced. This acceptance has created tremendous stress and darkness in Sri Lankan society. What is being witnessed today in Sri Lanka is the collapse of basic institutions and citizens are forced to accept no-system as a system.

The incumbent regime has been using cultural emotions to gain more power while sidelining the laws. Cultural dominance is a good way of understanding people's rights towards facilitating their own freedom. In the past, the royal absolute created huge distance between culture and the law. This was followed by a period that saw an overlap of cultural power with absolute power, resulting in isolation of the law. And, now, the gap between the highest practitioner of the law and the authority taken in the name of that law is itself the very foundation of dictatorship. To most citizens, the law was a stranger and did not directly cause any harm. But, those who have been allowed to abuse power in the name of law, have become the root cause of so many problems in our society.

Unlike most other countries, Sri Lanka has witnessed systematic and active elimination of dissent. This began occurring when a law, claimed to be of superior value, was introduced into society. This significant

and horrendous event began with the introduction of new constitution in 1978, which made the executive presidential system official. It is unfortunate that there were no statesmen at the time willing to abolish this unquestionable, unethical, and irresponsible system. Today, there are in fact many who are gaining more powers by tom-tomming the benefits of the same. And, even more harmful than this act of sheer political vandalism is the September 2010 amendment, i.e. the 18th amendment to the Constitution. It has damaged hope for political reform, essential to reconstruct any broken system.

We have been going wrong in the last few decades; many political proposals have reached the legal level with lots of loopholes that have only aided the escape of the real culprits. Destruction of policing did not happen through isolated incidents, but collective efforts of the absolute power for many years. We cannot blame police officers for their becoming tools of the custodians of power in order to earn their living. In other words, destruction of morality and of the genuine policing system is not the actual disease but only a symptom. The solution or the process to find a solution needs to start at the root. Without deep feeling for, and/or genuine commitment to high level of justice, claims of reform in state institutions are a farce.

What is visible before us today is only our own fallacious rhetoric:

"It would not be the same here; here such things are impossible."

COVER STORY: INTERVIEW**DARIUS REJALI**

Professor of political science at Reed College
 Author of "Democracy and Torture"

EXCLUSIVE INTERVIEW: "SIGNING THE UNCAT IS NOT ENOUGH."

Professor Darius Rejali is a distinguished expert on torture. He is an Iranian-born American academic, specializing in torture, who teaches political science at Reed College, USA. In an interview with the *Torture: Asian Perspectives*, Professor Rejali briefly discussed some of the socio-political aspects of torture. His primary work is *Torture and Democracy* and was published by Princeton University. It was awarded the 2009 Lemkin Award by the Institute for the Study of Genocide and The American Political Science Association picked it for the 2008 Best Book in the Human Rights Section. The book extensively examines the facts about, and strategic changes of, torture in order to evade international conventions and agreements. "In the 20th century, there were two main traditions of clean torture—the kind that doesn't leave marks, as modern torturers prefer. The first is French modern, a combination of water- and electro-torture. The second is Anglo-Saxon modern, a classic

list of sleep deprivation, positional and restraint tortures, extremes of temperature, noise, and beatings," he observed.

Torture and Democracy immediately lays claim to be the most compendious and the most rigorous work on the subject to date. Rejali is also the author of *Torture and Modernity: Self, Society, and State in Modern Iran*.

Here is extract of our interview with Rejali:

Question: Many countries have passed laws against torture, yet it still regularly occurs in many parts of the world, regardless of the letter of the law. What is it that makes some countries more likely to abide by anti-torture laws and others more likely to ignore them?

Answer: Social scientists don't know the exact causal factors. But the evidence is that only signing the Convention Against Torture (CAT) does not make a country less likely to

commit torture, and seems to be correlated with increases in torture in some cases. There could be many reasons why.

Question: While the United States and other Western countries have repeatedly made headlines over the years with high profile torture cases and counter-terrorism related assassination campaigns, in many Asian countries torture, abduction, and extrajudicial killings has become a part of daily life for ordinary people. Local police, paramilitary organizations, as well as the intelligence agencies of various central governments, actively participate in such acts. Do you see anything that makes torture in Asia unique when compared to countries in other parts of the world?

Answer: The demand for torture comes from three general sources as I describe in *Torture and Democracy*: perceived national security threats, judicial systems that favor confessions, and quiet local domestic relationships between police and powerful local citizens. The last is not as newsworthy but probably infinitely more common and can account for more torture worldwide that happens than what intelligence and security agencies do. I have not studied Asian torture specifically to have a view. All three are present in Asia as in elsewhere, though I think Asia has particular difficulties with its judicial systems as I describe in *Torture and Democracy* using the Japanese case.

Question: The UN has made repeated statements against torture, including resolutions condemning such actions in countries like Sri Lanka, but these never seem to have an impact on human rights abuses. Why don't these types of international pressure work, or do they work? What types of international pressure, if any, might have greater success?

Answer: Countries appear to respond to international norms on torture when failure to abide by these norms results in the loss of aid or legitimacy necessary to get economic or political assistance. When a country is more dependent on major powers that have little incentive to raise human rights issues - Iran, North Korea, and Sri Lanka are all examples - the government is less likely to be open to international pressure of any sort. But even if it was susceptible, this would only address one demand for torture (government), and not many other forms of torture that arise from domestic and local relationships.

Question: Asia has seen significant political changes in the last few years. Iran brutally suppressed political dissidents who protested fraudulent elections in 2009. The Arab Spring has resulted in political upheaval, not just in North Africa, but in Syria and Yemen, where heavy fighting has broken out. Saudi and UAE forces helped to crush dissent in Bahrain and the situation in Pakistan and Afghanistan seems to be as grim as it has ever been. Even in China, dissent and government crackdowns against it appear to be on the rise in recent times; however, other countries have enacted reforms to prevent social upheaval, the US led coalition is, for the most part, out of Iraq, and Myanmar (Burma) seems to have begun reforms as well. Do you think human rights abuses across Asia are likely to decrease over the next decade or do you anticipate conditions worsening before they improve?

Answer: There is no easy way to make a prediction, even as an expert. Given that the problems that lead to these conflicts are not going to disappear in the next decade, I think you have answered your own question.

COVER STORY: SRI LANKA | NARRATIVES

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SRI LANKA: NO WAY BUT TORTURE

Sri Lanka has a long history of using torture and ill treatments in various forms. Narratives published here were reported at the end of last year, when the Sri Lankan Government was facing tremendous challenges from the International Community in terms of protection of human rights. Torture is used in almost every police station in the Island nation, while fabricated charges, custodial death or extrajudicial killings continue. In a statement presented by Mr. Mahinda Samaringhe, Minister of Plantation Industries and Special Envoy of the President of Sri Lanka on Human Rights, pointed out, to the United Nations Human Rights Council, “the Government has paved the way for this by defeating terrorism and systematically

laying foundations for democracy, peace and prosperity. It is neither apt nor useful to prematurely speculate on what the final outcome or resolution can or will consist of. There is a realistic hope of regaining of democratic space, healing and unity. This perhaps is our greatest victory.” However, when you are looking into narratives you would appreciate that there are distances between dream and reality.

TALATUOYA: Police detain a man after illegal arrest and his family fear he will be tortured and extrajudicially killed

Mr. Ranasinghe Arachchige Sanjeewa (33), a driver by profession, has been in police

remand and arbitrary detention for more than fifty days following his illegal arrest by the Talatuoya police of Kandy district. Sanjeewa is under the custody of the Welikada Remand Prison. The Dematagoda police have received permission from a Magistrate Court to take Sanjeewa out of the cell for the purpose of investigation. The family is afraid that Sanjeewa may be killed 'attempting to escape' or be brutally tortured. Please intervene immediately to protect Sanjeewa's right to life and security from torture while in custody.

Mr. Ranasinghe Arachchige Sanjeewa (33) lives at No. 218/4, Talapiyannawa, Ampitiya in Kandy District, is married and a father of one boy. His wife is expecting another child. Sanjeewa drives his own car for rental transportation services. Besides driving his own car Sanjeewa also works for a company, which provides financial loans to interested persons to buy new vehicles on installment.

"It is a common occurrence in Sri Lanka that the police carry out extrajudicial killings by taking a suspect to a location where he is suspected of stashing some evidence and then claim that they tried to attack the officers and was shot while trying to escape."

On 17 October 2011, at around 11p.m., two police officers in uniform and four plain clothed persons came to Sanjeewa's house and asked him to come out. The police told him that he had to give a statement and promised his mother, Mrs. A.G. Priyawathi, that her son will return within an hour after making his statement to the police. They told Sanjeewa's family that they will keep two policemen at the entrance of the

house until Sanjeewa returns home from the police station. By doing so, in fact, the police prevented anyone from leaving or entering the house. The two policemen, who stayed back at the entrance of the house, also prevented Mrs. Priyawathi and her other son from making any phone calls. After around an hour the two policemen told the family that they were going to bring some drinks for themselves and did not return.

Later, when Sanjeewa's wife Mrs. Dhammika had called 119 for emergency service of the police in order to check Sanjeewa's whereabouts, she came to know that the police had sent her husband to Colombo. The emergency police unit sent a police team from the Talatuoya police station, who took a written statement from Dhammika. The police officers refused to give any explanation regarding the reasons of sending Sanjeewa to Colombo when Dhammika enquired.

On 18 October, an officer from Talathuoya police had called Dhammika and informed that Sanjeewa was detained under the custody of Colombo Crime Division (CCD) Branch at Dematagoda. The police officer had given a phone number of Police Inspector Mr. Wijesinghe of Dematagoda CCD branch for more information.

On 19 October, Sanjeewa was taken to the Halsdrof Magistrate Court No. 3 for a Test Identification Parade regarding his complaints against the police. However, it was not held on that day. Mr. Sanjeewa was sent to police remand for 14 days and was detained in Welikada Remand Prison.

Again on 1 November Sanjeewa was produced before the same Court and remanded till 8 November. The parade was held on that day and he was further remanded till 22 November.

On 22 November, the Magistrate asked Sanjeewa and few other accused persons whether they would like to be crown witnesses for which Sanjeewa had agreed. However, the police officers have got an order from the open court to take Sanjeewa out of the Welikada Remand Prison for further investigations when necessary and the case was postponed until 6 December.

According to Sanjeewa's wife, Sanjeewa and few others were accused of an alleged incident of possessing a weapon at the time of seizing a vehicle owned by a company.

At present, Sanjeewa's wife and the family fears that the police will take Sanjeewa out of the remand prison on the pretext of further investigation for which the police got approval from the Court and Sanjeewa might be tortured or even killed by the police. It is a common occurrence in Sri Lanka for the police to carry out extrajudicial killings by taking a suspect to a location where he is suspected of stashing some evidence and then claim that they tried to attack the officers and was shot while trying to escape.

Further, the family is afraid that Sanjeewa, who is diabetic, may be left without adequate medical treatment following custodial torture, which may also seriously threaten his life.

JAFFNA: Body of a custodial death victim was dumped in a river by Chunnakam police

Sri Skandaraja Sumanan, a twenty eight year old man, was taken into custody by two plain clothed persons, who identified themselves as officers from the Police Intelligence Services. He was taken into custody at the junction of Punnalay Kattuwan, in front of a barber shop. He sat between the two officers on their motorcycle and was taken to the

Jaffna Police Station.

Friends who heard about the incident went to the Jaffna Police Station to see him but they were told that he had been transferred to Chunnakam police Station. When the friends and relatives went to that police station they could not find him.

Later, one of Sumanan's relatives and his twenty-seven-year old brother were told by the police that Sumanan was dead and asked the relatives to go to Kilinochchi and identify the body. The police have stated that they found the body in a canal and that it was sent to the Polonnaruwa District Hospital for post mortem examination. The examination was held on 26 November 2011 and the burial was held on 27 November. At the post mortem about 40 injury marks were found and the relatives are of the view that the injuries were caused by torture in police custody.

The police version is that Sumanan fled from police custody and had fallen into the canal where he drowned. The police also stated that Sumanan was wanted for several robberies in the area. The allegations of Sumanan's involvement in robberies have been denied by the relatives. According to the relatives he was a patient receiving treatment from the psychiatric ward at Monthai, Point Pedro.

The relatives state that Sumanan had been tortured at the police station and his body was thrown into the canal by the police.

MATALE: A woman is arbitrarily detained for more than forty months without access to fair trial

Ms. Anthony Chandra's husband Mr. Muttusamy Raj remained under surveillance of the Terrorism Investigation Division (TID) of the police who suspected Muttusamy as

a member of the Liberation of Tamil Tigers Elam (LTTE). At one stage Muttusamy fled the country. Subsequently, the TID officers who followed him failed to relocate and capture him.

The TID officers of Kandy district arrested Muttusamy's wife Ms. Anthony Chandra on 10 August 2008. They detained her for eight months at the Kandy TID section at the Kandy police. She was produced before the Matale Magistrate Court on 13 May 2009 for bringing in remand at the Raja Veediya remand prison. Chandra has been in the remand prison until now.

The TID officers filed 12 cases against Chandra and right now she has got 7 cases being called in every 14 days: 3 cases in Panwila Magistrate Court, 3 cases in Kandy Magistrate Court, and 1 case against her at the Matale Magistrate Court. According to Chandra, all of the 14 cases are fabricated charges but charges are of very serious in nature as registered under the Prevention of Terrorism Act (PTA).

Therefore, Chandra is repeatedly being refused bail by the Courts and has been languishing only in the remand prison for the last two years while her actual period of detention has already passed forty months. Chandra has never been informed about the reason for her arrest and the charges made against her. She was never taken for a trial before a court and has been languishing in Prison for no reason.

Chandra has suffered severe forms of torture during her detention at the TID branch of the Kandy police station and at the remand prison. She was interrogated almost every night while at the TID branch. The interrogators threatened her of possible rape and murder if she refuses to tell her husband's whereabouts to the police.

Anthony Chandra is a mother of three girl children aged six, nine and eleven years respectively. All the children now live with their grandmother (Chandra's mother-in-law) in absence of their parents. The police officers, by keeping Chandra under prolonged detention, have been denying the children's right to receive adequate motherly cares without any reasonable grounds.

WATTALA: An innocent man is illegally arrested, tortured and laid with a false charge by the Police.

Mr. Narahenpita Gamage Sisil Weerasinghe (48), a retired soldier was illegally arrested, detained and severely tortured by officers attached to the Wattala Police Station. Sisil had been waiting for a bus to take him home at around 10 pm when the officers accused him of planning to rob a house in the area. When he denied that they started beating him. They then took him to the Wattala Police Station where they continued to torture him. The ill-treatment resulted in his hospitalisation for a broken hand. He was falsely charged with indecent behaviour and fined Rs. 1,500/=.

Sisil at no time obstructed or threatened the officers but instead voluntarily gave them all the information they requested. Their illegal action was no doubt the result of their desire to boost their standing with the OIC of the station. This case is yet another illustration of the exceptional collapse of the rule of law in the country.

According to the information received by the Asian Human Rights Commission Mr. Narahenpita Gamage Sisil Weerasinghe (48) is married, the father of two daughters and a retired soldier. Sisil, who resides at No: 212/1, Woodland Estate, Colombo Road, Chilaw is disabled as the result of injuries to his right leg and hand, sustained during a battle in

July, 1992. Following his partial recovery, Sisil was removed from operational duties and given light duties. He retired from the service in 2007 and later worked as a private security guard attached to the Peoples' Bank.

On 30 December 2011, he was working at the Peoples' Bank branch at the Headquarters of Island Revenue Department at Fort, Colombo. On this particular day after completing his work he was on his way home by bus. Then as he felt a stomachache he informed the conductor and asked him to stop the bus. He alighted from the bus and went to a nearby toilet after which he waited for another bus to continue to his home.

While he was waiting a red colour three-wheeler came and stopped in front of him. Then the persons, who were in police uniforms, asked him what he was waiting at the roadside for at that time (by this time it was close to 10 pm). Sisil explained what had happened to him and told the officers that he is waiting for a bus. The police officers accused him of planning to commit to a house breaking. Sisil explained to them that he was a former soldier of the Sri Lanka Army, that he was disabled and presently working at the Peoples Bank Security Section at the Island Revenue Department Branch. However, the officers did not accept his explanation, accused him of arguing with them and started to beat him with fists and boots. The officers then dragged him into the three-wheeler and brought him to the Wattala Police Station.

At the police station again three police officers including a police officer who was later identified as Mr. Mahinda started to beat him with a cricket bat. Another officer beat him with a plastic pipe that had been filled with sand. Sisil was struck all over his body and pleaded with the officers not to beat him. He repeatedly explained that he was

a disabled soldier, but the officers did not listen. Even after Sisil fell to the ground the officers continued to beat him mercilessly. Later they locked him in a cell.

As Sisil was suffering immense pain he pleaded with the officers to provide medicine. They then took him out from the cell and brought him before a doctor. Before he was brought into the doctor two officers held his arms while another officer forcefully poured liquor into his mouth. Sisil tried to resist but the officers forced him. Then he was brought before the doctor. Then Sisil explained to the doctor in the presence of the perpetrators how he was tortured in police custody. He further told the doctor that due to the assault one of his hands was fractured and that he was experiencing enormous pain. However, to his amazement the doctor ignored him and did not provide any treatment or medicine.

Later Sisil was returned to the police station and put back in the cell. When he started to scream with pain one of the officers gave him two tablets but he did not know what it was.

Later in the morning on 31 Sisil was asked to sign a document but he refused. He further explained that he cannot read without his spectacles. The officers told him that if he signed and pleaded guilty at court he could go home and get treatment. He then signed the document and was brought to the Wattala Magistrate's Court. The police officers who tortured him were present in the court and they stood close to Sisil while he was produced before the Magistrate. Sisil did as he was instructed and pleaded guilty. He later learned that he had been charged with indecent behaviour due to being inebriated. He was then fined Rs. 1,500/=. Sisil vehemently denies the accusation and states that as he was in severe pain and in fear of further torture by the perpetrators who never once left his side. He therefore

states that he had no option but to plead guilty to the charge.

Sisil went home and received treatment from a doctor. Though the doctor provided medicine by 2 January, 2012 Sisil's condition worsened. He was admitted to the Chilaw Base Hospital for treatment by his family members. While he was treated at the hospital the doctors revealed to him that there is a fracture in his hand. The Judicial Medical Officer (JMO) examined him and recorded his situation. The officers attached to the Police Post of the Hospital also recorded his statement. On 4 January he was discharged but he was asked to return to the clinic for further treatment.

Sisil states that he was illegally arrested, detained, severely tortured and maliciously prosecuted. He states that his fundamental rights were violated by the police officers attached to the Wattala Police Station.

After he was discharged from the hospital, Sisil complained to the Human Rights Commission, Inspector General of Police, Attorney General, the Director of Special Investigation Unit (SIU) of the Criminal Investigation Department, (CID) Senior Superintendent of Police of the Western Province, (North) and the Officer-in-Charge (OIC) of the Wattala Police Station. To-date none of these authorities have responded to him nor investigated his complaint.

TELDENIYA: An innocent youth persecuted for over six years by the police

Mr. Muttiah Chandra Mohan (36) is a driver by profession, married and the father of two daughters. He resides with his family at No: 01/B, Ambakotte, Kengalle in the Kandy District.

In July 2006, there was a clash between

the policemen from the Teldeniya Police Station and some youths of Ambakotte. At that time the policemen came to the village in plain clothes and beat several young people indiscriminately. As the officers were in plain clothes and did not identify themselves as police officers the young men retaliated and beat them in return. Chandra Mohan was arrested along with some others in this connection and was remanded for 8 months at Bogambara Remand Prison. He was later released on bail and the case is still proceeding (after six years) in the Kandy Magistrate's Court. As a condition of bail Chandra Mohan was ordered by the court to report to the Teldeniya Police Station on every first Sunday of the month.

On the 6 April 2008, when he was returning from the Teldeniya Police, (after reporting) Chandra Mohan was arrested by the Colombo Terrorist Investigation Department (TID) officers at his house at Ambakotte. He was detained at Gurudeniya in a house for 4 days. He was handcuffed and during the day he was blindfolded. Chandra Mohan was inhumanly tortured during those four days. He was kicked, hung, stripped naked and beaten and later taken to the Colombo TID office where he was detained for 10 months. From the TID office he was transferred to Boossa, where the terrorist suspects are detained without having been charged. He was detained there until October 2009.

Chandra Mohan was finally produced in the Magistrate's Court of Colombo on the 10 October, 2009 and was remanded in Colombo Remand Prison (CRP) as a terror suspect under Remand No. 5820. His case No: is B/3122 EER 25/2011.

Since 2008 Chandra Mohan has never been given the reason for his arrest. In January 2012 the Attorney General's Department filed an indictment accusing him of participating in

terrorist activities. His High Court case will be called at the Kandy High Court.

Chandra Mohan and his family feel that this was an act of revenge taken by the police for the incident that happened in 2006 at Ambakotte, that he was arrested again, tortured and accused because of this prior incident.

THAMBUTHTHEGAMA: Innocent man was illegally arrested, tortured and denied justice by police

On 15th August 2011, Mr. Madabavitage Samantha and his assistant, Mr. Piyal Thilakarathna went to Madu Church in the Mannar District for a church feast. Samantha attended the feast in order to sell a consignment of rabuntan. Samantha and his assistant travelled to Madu Church on a friend's three-wheeler with the license plate number JK 1923. At 4:30pm, after they had sold the consignment, Samantha and his assistant began to make their way back home.

On their way home, Samantha began to feel tired and decided to park the three-wheeler on the side of the road, take a short nap and then continue the journey. He stopped the vehicle near a garment factory in the town of Thambuththegama. In his possession was Rs.27,500 and his gold wedding ring.

Samantha woke when a three-wheeler carrying two people stopped next to him. One of the passengers who was later identified as Thushara asked for his identity card. Samantha replied that he was not obliged to give him his identity card unless Thushara was a police officer. Samantha noted that both passengers were highly intoxicated. Next, Thushara struck Samantha several times on his head, leaving him feeling dizzy and faint. When he regained consciousness,

he felt Thushara remove his wedding ring. Then Thushara started beating Samantha and shouting obscenities. The security guards of the garment factory chased Thushara away. Soon after, two uniformed policemen arrived on a motorbike and Thushara secretly talked to both police officer and left with his companion. Samantha approached the policemen and asked them to take him to the police station so that he could file a written complaint. The police officers refused, saying that making a complaint would cause him more difficulty. Samantha also asked the policemen to take him to the nearby hospital for the treatment of his injuries, but the policemen refused this request as well. Samantha speculated that the police officers were working with Thushara and the other man who had assaulted him and taken his ring.

Soon after, Thushara returned to the scene with a woman, who told the officers that an unknown person had been loitering around her residence wearing a red t-shirt. The police officers then brought Samantha and his assistant to the Thambuththegama Police Station, where they were detained in a police cell. Samantha attempted to explain to the officers what had happened, and asked them to take him to the hospital for the treatment of his injuries. During this time, Thushara entered his cell and shouted at him. The policemen refused his requests and degraded him with obscene language. Samantha noted that denying essential medical treatment while in custody constitutes torture under Sri Lankan law. The next day at 2am, the police brought Samantha to the Thambuththegama Government Hospital for treatment. The doctor advised the police to allow Samantha to be admitted for treatment, and they acquiesced. In the evening, Samantha was brought from the hospital to a court, where their case (B/644/2011) was presented to the Magistrate of Thambuththegama.

Samantha's assistant, Piyal, was also brought to court. Samantha explained what had happened with Thushara and the police. The magistrate directed prison officials to provide Samantha with medical treatment. On 19 August, Samantha and Piyal were once again brought before the magistrate. The police stated that since there was no evidence against either suspect, the case should be withdrawn. The magistrate concurred and ordered their release.

However, Samantha noted that the police did not accept his complaint, nor did they take action against Thushara and his companion for assaulting him and taking his ring. The magistrate also did not take any action against the police officers who assisted Thushara and his companion in the assault and had illegally arrested, tortured and detained him.

On 26 August, Samantha made a complaint (CIB 142/54) at the police headquarters regarding the illegal actions of the police officers at the Thambuththegama Police Station. Samantha has not been informed of any action taken against Thushara or the police officers, and believes that justice was denied for him and Piyal.

UDUGAMA : A man is illegally arrested, tortured and laid with fabricated charges by the police

Mr. Sathira Dharshana Jayawickrama (22) of Manigawatta, Ketagoda, Udugama in the Galle District is single and a driver by profession. On 6 June 2011 Sathira was arrested by police officers attached to the Udugama Police Station and was later severely tortured.

On the evening of this particular day Sathira on his way to a neighbor's funeral when he heard a loud scream coming from the house

of another neighbor, H.W. Gamini and he rushed towards this house.

Sathira saw that a crowd had gathered in the premises and some people were assaulting Gamini. His wife was screaming and crying. When Sathira approached them the people stopped assaulting Gamini.

Sathira was able to identify the people who were assaulting him as police officers attached to the Udugama Police Station as he had seen them before. They were in civilian clothes and he saw that they were heavily intoxicated. Among them were the officers, Wijenayaka and Roshan.

At that moment, Gamini's wife called out, "Could anyone please help to get uncle Gamini into the three-wheeler to take him to hospital". Then Sathira went forward and tried to get the injured neighbor into a three-wheeler. At that instant, the officer, Wijenayaka grabbed Sathira by the neck and said, "This fellow too must be one of them". Then they forced him into a police cab.

The other police officers, who had put Gamini into the three-wheeler came back to the road. At that time the neighbors pleaded with the police officers to take Gamini to the hospital, but the police officers said, "We are taking him to the police station, not to the hospital". Then the neighbors got together and took Gamini out of the three-wheeler and put him into a tipper truck which was stopped at the roadside.

Then the police officers blocked the road using the three-wheeler and the police cab into which Sathira had been forcefully loaded. The agitated villagers began to attack the police officers with stones and the police responded in a similar manner. Sathira saw one of the stones hitting the glass of the tipper in which Gamini was sitting.

Later, in consequence of the villagers' protest the police officers left for the police station taking Sathira along with two other persons who had been arrested before. Sathira later identified these two persons as Tharindu and Sisira.

They were brought to the Udugama Police Station where the officers started to assault Tharindu and Sisira. Afterwards they were put into a cell. Then the officers who were later identified as Wickrama, Indika, Apa, Wijenayaka and other unknown officers surrounded Sathira and started to beat him with clubs, fists and boots. Instantly Sathira fell to the ground but they continued to beat him and later put him in the same cell where Tharindu and Sisira were detained.

After about ten minutes, the Officer-in-Charge (OIC) of the police station came to the room and verbally abused Sathira. He then said to the officer outside, "I must beat him myself and don't need anyone else".

Then the OIC started to punch and kick Sathira inside the cell. Following this torture he pulled Sathira by his hair and ordered him to sit on the bench in the cell. The OIC left but returned after a few moments and threatened that all three detainees would be charged under the firearms act by being implicated in a bomb case". Then he went out again. By that time, only Tharindu and Sathira were in the same cell. Sisira was alone in the other cell.

Sathira learned later that on the night of the same day his mother and father came to visit but were not allowed to see him. Therefore, Sathira did not get a chance to talk to them.

The following day, 7 June Sathira's parents came again at around 8 am. His father was allowed to hand over some food but was not permitted to talk to Sathira. He was told to

leave the police station as soon as possible.

Later, a police officer took Tharindu, Sisira and Sathira out from the cells and presented them before the Officer-in-Charge who told them, "If you strive too much, I will put you all in prison by implicating you in a bomb case". Thereafter, he inquired from all three detainees whether they could identify the officers who had assaulted them. Sathira answered that he did not know because he feared facing a fabricated bomb case. Then the OIC told him, "Very good, now go and bring your medical reports". Then all three detainees were brought to the Udugama Government Hospital by the police officers. Sathira identified a few of the police officers who brought them as officers, Wijenayaka, Apa, Indika and a policewoman.

Then all three detainees were produced before a doctor in the hospital. First Sisira was brought to the doctor. After about half an hour, Tharindu was next and after that, officer Wijenayaka accompanied Sathira to the doctor.

The doctor asked Sathira if the police officers had assaulted them. Sathira said 'no', because Wijenayaka was there and he was in fear of further torture and facing fabricated charges.

Then the doctor took Sathira to take off his shirt and checked his body with a torch. By then Sathira had bruises on his back because of the beatings. At that time the doctor said to the officer, Wijenayaka, "I may also get into trouble by this". Then the officer said, "Don't be afraid, Doctor, nothing will happen".

After that all three detainees were taken back to the police station with the medical reports.

Then the OIC came to Sathira and others and told him, "If you reveal a word about this, I will take you in and give you a punishment".

Then Sathira and the others were taken to the Magistrate's Court of Baddegama. The officer who brought them to the court informed the Magistrate that the three suspects were taken into custody with a sword, a club and a bottle of sand. After that Sathira and other two were remanded. Sathira was later produced before the Magistrate again who extended his detention for a period of 42 days.

On 28 July 2011, Sathira was released on bail but he was ordered to appear before the same court the next day, (29 July). On this particular day his mother had to produce a certificate from the Grama Niladari of her village with the correct identity card number as that on the first report contained an error.

Subsequently Sathira learned that the police had filed another complaint against Sathira and several other neighbors including Sisira, Tharindu, Thushara, Raveendra, Disnaka, Sumith, Nalaka, Kasun, Gamini, Indraratne and Dhammika. Sathira vehemently denied the allegations of attacking three persons and damaging a house. He later learned that the second case number as No: 55614. The next hearing of that case has been scheduled to 17 November 2011.

Sathira states that he was illegally arrested, detained and severely tortured. Further he states that the police filed two fabricated charges against him. Sathira states that the OIC of Udugama Police Station and the police officers Wijanayaka, Indika, Roshan, Apa and Wickrama are responsible for the violation of his rights.

After he was released on bail he sent written complaints to the Human Rights Commission of Sri Lanka (HRC), the National Police Commission (NPC), the Inspector General of Police (IGP), the Deputy Inspector General of Police (DIG) Southern Province, and to the Director of the Police Legal Division at Police

Headquarters. Despite having been sent on 9 August 2011 none of these authorities have started an investigation in relation to the violation of his rights.

He further states that he is presently in fear of being illegally re arrested and further torture by the OIC and the other police officers. He is presently in fear of his life and seeking protection. It comes as no surprise to learn that none of the offices and officers who received Sathira's complaints have taken action. In a country where the president himself can turn a blind eye to the murder of a prominent politician the HRC and hierarchy of the police can hardly be expected to take an interest in the torture of an innocent man.

JAFFNA: Perpetrators of brutal attack on student leader of Jaffna University have not been arrested

Mr. Subramaniam Thavapalasingham, president of the Jaffna University Students Union (JUSU) was severely assaulted by members of an unknown group in Jaffna on 16 October 2011.

Thavapalasingham (24) is a permanent resident of Puthoor of Mullaitheevu, in Vanni District. He is also a student of the Art faculty at the University of Jaffna. In 2010, Thavapalasingham was elected to the position of President of the Student Union of the Art Faculty. Later, he was elected president of the Jaffna University Students Union (JUSU) by the student representatives of each faculty of the university.

However, he was not formally accepted by the university administration. It was said that certain political parties and armed groups did not want Thavapalasingham, a civil rights activist, to be president of the JUSU. Thavapalasingham was popular among his fellow students and well-known for his

political views. He spoke openly about the rights of citizens in Sri Lanka's Northern and Eastern provinces, which are under military control, particularly about the citizens in the North who have to contend with a heavy military presence despite the fact that there is no armed conflict in the area. He openly discussed the disturbance to these residents and the constant atmosphere of fear they felt, particularly after the reported stories of 'Grease Devils' in Jaffna. The residents of the area believe military intelligence officers are responsible for these incidents.

On 16 October 2011, Subramaniam Thavapalasingham (24) went to a meeting held at the residence of a parliamentarian on Kandarmadama Street in Jaffna. After the meeting, he was followed by eight people on motorbikes who were in the possession of sharp iron rods and beat him severely on his head. As he was being assaulted, his assailants said: "do you dare to ask for a separate homeland?"

Thavapalasingham was severely injured and was admitted to the Intensive Care Unit of Jaffna Teaching Hospital for treatment.

Considering the severity of his injuries and the weapons used for the attack it is clear that the intention of the attackers was to kill the student leader. As such, the Asian Human Rights Commission considers this to be an attempt to extrajudicially kill a civil rights activist and student leader.

Thavapalasingham believes that the attack was well organized and planned for political reasons because of his civil rights work. He believes that military intelligence officers are responsible for the attacks.

None of Sri Lanka's law enforcement agencies have begun an efficient and transparent investigation into the incident.

Thavapalasingham is being denied justice. The AHRC has observed this attack as one of a series of attacks that have happened over the past few months.

COLOMBO: Death of the primary suspect in the case of the murder of a newspaper editor should be investigated

Pichchei Jesudasan (36) of Magastora, Nuwara Eliya District died on 15 October 2011. Jesudasan was the owner of a garage in Nuwara Eliya. He was arrested under the suspicion that he had been involved in the assassination of Sunday Leader newspaper editor Lasantha Wickramatunga in January 2009. Lasantha was killed on 8 January 2009 at Malagala, Atthidiya in Colombo as he traveled to his workplace.

Several days after Lasantha's death, Jesudasan was arrested in Nuwara Eliya at his residence and detained at the police station. Shortly thereafter, he was produced before the Magistrate of Mount Lavinia and then remanded at Magazin Prison in Colombo. Even though he had not been charged by the courts, he was detained in prison for almost two years. Jesudasan was suspected to have close ties with the LTTE (Liberation Tigers of Tamil Elam) and was thus provided with special security measures while he was at Magazin Prison.

On 13 October, he was to be brought from Magazin Prison to Mount Lavinia Magistrate Court for his suspected involvement in Lasantha's death. He was found that day in prison lying on the ground having discharged a large amount of sputum (a mixture of mucus and saliva) from his mouth and nose. Prison officials admitted him to ward 44 of the National Hospital in Colombo for treatment. Two days after he was admitted, he was pronounced dead. Jesudasan was a healthy adult who sustained a livelihood

as a mechanic before the arrest. He had no previously reported illnesses. The police stated that Jesudasan died of a heart attack.

Before Jesudasan's death occurred, another suspect was arrested and remanded in relation to the assassination of Lasantha. This suspect, who is said to be connected to the Military Intelligence Unit, made a confession before the Magistrate of Mount Lavinia. He stated before the Magistrate that he was forced to confess to the killing of Lasantha Wickramatunga by several higher ranking police officers, including the Officer-in-Charge (OIC) of the Terrorist Investigation Division (TID) who was following the orders of former Army Commander Sarath Fonseka. He said that he refused to follow these orders and pleaded for protection because he believed that his life was in danger.

The investigation into Lasantha's assassination has continued for several years; yet a final investigation report has yet to be submitted to the court. The Magistrate has reprimanded the investigating officers attached to the Criminal Investigation Department (CID) of Sri Lanka Police regarding this delay on several occasions. The officers attached to the CID have stated that the investigation into the killing of Lasantha has been transferred to the Terrorist Investigation Division (TID) of the Sri Lanka Police. The final report on the investigation of the killing of Lasantha Wickramatunga has yet to be submitted to the court.

Several local and international human rights groups, media organizations, and influential people including the president of the United States have shown their interest in seeking justice regarding the killing of veteran journalist Lasantha Wickramatunga. In light of this national and international pressure, the death of the main suspect of this crime is extremely suspicious. The collapse of

the criminal justice system, particularly in relation to cases of serious human rights abuses is emblematic of the lethargic approach of Sri Lankan law enforcement agencies in implementing the country's laws.

Jasudasan's sudden death is a serious blow to the investigation of Lasantha's death. Justice has been denied to both Lasantha and Jesudasan.

DOMPE: Innocent man was severely tortured by police

"Buddhika states that he was illegally arrested, detained and severely tortured by the police officers. An investigation has not been initiated and justice has been denied."

Mr. Battharamulla Gamage Susantha Buddhika (19) of No: 243/3, Pelahela, Dekatana, Dompe in Gampaha District was illegally arrested, detained and severely tortured by the police officers of the Dompe Police Station on 28 September 2011.

Buddhika lives with his mother Ms. Hingurangala Arachchige Rupa Herath (44) and his younger sister. On 27 September 2011 the mother of another friend in the village, Indika, informed Buddhika that a police officer from the Dompe Police Station had requested his presence at 9am the following day at the police station. The next morning, Buddhika went to the police station. Upon arriving at the police compound, he saw his friend Indika sitting on a bench and enquired why he had been summoned to the station. Indika replied that he did not know. Then, Officer Gunawardana of the Crime Investigation Branch of the police station called them into a room. He tied both of their hands behind their backs and questioned

them about the theft of a water pump. Both Buddhika and Indika denied involvement in the crime. Officer Gunawardana then proceeded to punch and kick Buddhika and Indika. He hit Buddhika's face and then had him bend over so that he could hit his back. Buddhika and Indika were then brought to a jail cell.

A half hour later, Buddhika was brought to the back of the police station building and made to remove his clothes. Two police officers in civilian clothes were also present. Buddhika was then told to lie on his stomach on a bench. One of the officers tied his hands together with a rope underneath the bench, and tied fabric through his mouth so that he could not speak. Then an officer used a Kithul pole to beat him while two others beat him with a hose pipe. The officers repeatedly asked him about the theft of a water pump; Buddhika maintained his innocence. He began to bleed from his thighs and buttocks. The officers then untied his hands and made him stand up and climb onto the bench. They tied him to a ceiling beam. The officers then beat him with pipes and poles. Buddhika fell unconscious, and the officers took him down. He asked for some water, which he was provided with. When he placed the cup of water on the table, an officer threw its remaining contents in Buddhika's face and took him back to his cell.

The next morning, 29 September 2011, Buddhika's mother came to the police station to enquire after her son. Buddhika told her that he had been badly assaulted by the police officers and asked her to request his release. At 3pm that day, the Officer-in-Charge (OIC) of the crime branch and the Inspector of Police (IP) Mayadunne came to his cell and escorted Buddhika to the back of the building. IP Mayadunne ordered Buddhika to lie on the bench again. His hands were tied underneath the bench and he was severely

beaten with a pole. After 30 minutes, the officers untied his hands and ordered him to stand up. When he acquiesced, they beat his knees with a Kithul pole and they began to bleed.

Several hours later, Buddhika saw another villager, GH Gayan Saranga, had been brought to the station. Soon after his arrival, IP Mayadunne and another officer dragged Saranga by his hair to the back of the police station building, where Buddhika had been tortured. He heard the sounds of Saranga being beaten by the officers and heard him saying: "Ammo Ammo Gahanna Epa, Mama Danne Ne" (Mother! Mother! Do not beat me. I did not take anything.)

The next morning, Buddhika learnt from other police officers that Saranga had died while he was being tortured. He noticed that there were a considerable number of police officers present. Soon after, a crowd of people came to the police station. He was unable to stand up due to his extensive injuries and lay on the ground. A member of the crowd entered the police station and with the assistance of others, broke down the door of the cell and brought Buddhika out. Buddhika was admitted to the Dompe Government Hospital for immediate treatment. The doctors at the hospital then transferred him to the General Hospital of Gampaha for further treatment.

Buddhika states that he was illegally arrested, detained and severely tortured by the police officers. An investigation has not been initiated and justice has been denied.

KIRIBATHGODA: Innocent couple was illegally arrested, detained and tortured by the police

Mr. Suriyaarachchige Lakshman de Silva was illegally arrested, detained and severely

tortured by police officers attached to the Kiribathgoda Police Station on 13 August 2010. His wife B.M. Ajantha Weerasinghe of Kadawatha in Colombo District, was illegally arrested, detained and verbally abused.

Lakshman is a painting contractor by profession. Several months ago, he made an agreement with a businessman called B. Cramer to do a number of contracting tasks. According to the agreement, Mr. Cramer was obliged to pay Lakshman a sum of Rs. 450,000 upon completion of the tasks.

Within the stipulated period of time, Lakshman completed the tasks and fulfilled all the conditions of the contract. Lakshman contacted Cramer and made several requests to settle the account as agreed. Soon after, it is believed that Cramer approached senior officers at the Kiribathgoda Police Station and encouraged them to find and harass Lakshman.

Several police officers including the Officer-in-Charge (OIC), Inspector of Police (IP) Chaminda, OIC of Crimes Branch, Sub-Inspector (SI) Viraj, Police Sergeant Dissanayake and Police Constable (PC) Ratnayaka of Kiribathgoda Police Station, visited Lakshman's residence while he was not at home and harassed other members of his family.

On 13 August 2010, a team of police officers, including the aforementioned officers, searched Lakshman's residence. They threatened Lakshman's wife, B.M. Ajantha Weerasinghe, and ordered her to accompany them to the police station. When she refused, they illegally arrested Ms. Weerasinghe and brought her to the Kiribathgoda Police Station where she was abused with foul language and forced to sign a statement that she would produce her husband at the station.

Later that day, police officers illegally arrested Lakshman and brought him to the station. Lakshman was physically assaulted and remanded by the police. He was then produced before the Magistrate and released on August 30.

Lakshman states that his illegal arrest, detention and torture is a violation of his and his wife's fundamental rights guaranteed under the Constitution. Even so, law enforcement agencies have not initiated any investigation into this incident. Lakshman states that justice was denied.

HOMAGAMA: Witness to a corruption case's home attacked; investigation needed

Mr. Abewardana Wickramasuriya Ranpatabandige Lional Chandrasiri of No: 29/5, 2nd Lane, Town Circle Avenue, Homagama in Colombo District was a witness in a corruption case.

Chandrasiri is a retired government schoolteacher. His final service was at the Royal College, Colombo. On 30 September 2011, he was called before an Inquiry Committee appointed by the Education Department and the Ministry of Education to give evidence regarding several cases of corruption which took place during the grade one admissions process of the school where he used to work. Every one of the cases clearly demonstrated violations of the financial regulations of the state. Chandrasiri gave his evidence before the committee and returned home.

Around 2:30am that night, he awoke to the sound of gunfire. He remained inside the house, but saw by the light of a streetlight that outside the front of the house were several motorbikes and around five people firing at his property. After the attackers had left, he saw that the two vehicles in front of

his house, as well as the front of his house had been badly damaged by the shooting.

The next morning, he went the Homagama Headquarters Police Station and made a complaint about the incident. He seeks a prompt, efficient, transparent and independent investigation of the attack. He believes that the attack was an attempt on his life and that he is under serious threat for giving evidence against those who were involved in the corrupt admissions process. He believes that his life is in danger. However, the case has not been investigated, nor has he been provided with protection. None of the suspects have been arrested in relation to the attacks. There is a need for an efficient, transparent investigation and for the perpetrators of this violation to be brought to justice.

KALUTHARA: Innocent man denied justice for eight years

At the police station police officer Leelarathna tried to force Jaythilaka to sign a document prepared by him and which was not explained to him. When Jayathilaka refused to sign the document he was at first threatened and then beaten and kicked.

Mr. Pathrage Don Jayathilaka (56) of Molkava, Baduraliya in Kalutara District. Jayathilaka is a farmer and is single. He has been residing in the same village since his childhood.

On several occasions police officers attached to Baduraliya Police Station came to arrest Jayathilaka's brother, P.D. Sunil for producing illicit liquor and when they failed to locate and arrest the brother they arrested

Jayathilaka in his place. This happened despite the fact that the police were well aware that Jayathilaka did not consume alcohol and was not involved with the production or distribution of illicit liquor.

Jayathilaka had to pay bribes to the arresting police officers to avoid further harassment by being produced before a court of law. Jayathilaka paid these bribes on more than ten occasions as he had no relatives that could come and rescue him from the court proceedings.

On 21 October 2003, a group of police officers attached to the Baduralaiya Police came in search of his brother and once again, when they could not find him, they arrested Jayathilaka. Jayathilaka clearly identified one policeman as officer Leelarathna as he had been involved in arresting him and taking bribes from him on several occasions in the past. There were other two police officers as well. Then he was brought to the police station.

At the police station police officer Leelarathna tried to force Jaythilaka to sign a document prepared by him and which was not explained to him. When Jayathilaka refused to sign the document he was at first threatened and then beaten and kicked.

On 22 October 2003, the police officers brought Jayathilaka to the Magistrate's Court of Matugama and produced him with the fabricated charge of the possession of 8 drums of illicit liquor. Jayathilaka from the very beginning vehemently denied the charge and pleaded not guilty before the Magistrate.

Considering the facts submitted by Jayathilaka himself before the Magistrate he was granted bail with the condition of Rs.5000.00 as surety. However, there was

nobody to fulfill the bail condition and so he was not released at that time. Then again on 28 October his case was taken up before the same Magistrate and his sister provided the money after pawning her jewelry. Jayathilaka was finally released on bail and later learned that his case number was 60954.

After his release Jayathilaka complained to the Human Rights Commission of Sri Lanka (HRCSL) and the National Police Commission (NPC) about the illegal arrest, detention, torture and filing of fabricated charges. There has never been any response by any of these agencies regarding the violation of his rights.

Jayathilaka decided to fight for justice against the routine malpractice of the police officers. He had to wait another two years to face the trial, because of the absence of the police in court. Then again his case was delayed for a further two years due to the delay by the government analyst in submitting their report to the court.

Finally after eight years of continuous delays on 19 August 2011, the case was taken up for trial and Jayathilaka was able to prove his innocence before the Magistrate against the fabricated charges filed by the police officers. The Magistrate acquitted Jayathilaka from all the charges filed against him.

At the end Jayathilaka complained to the Magistrate against about the police officers for their procedural delay in the court process. He further explained that police officers involved in filling the charges and arresting him intentionally used their official capacities to harass him. He clearly further submitted the fact that the malicious conduct of the police officers could be prosecuted beyond reasonable doubt.

After he was cleared of the charges he again complained to the authorities including Inspector General of Police (IGP), Human Rights Commission and National Police Commission seeking justice. But, despite several reminders, no action has been taken against the culprit police officers.

UDUGAMA: Police tortured an innocent man after illegal arrest and laid with fabricated charges

“Prison is very ideal to describe as a torture chamber.”

Mr. Henegoda Vithanachchige Gamini (41), of Udugama in the District of Galle is married with three children and is a planter by profession.

On 16 June 2011, a police team attached to the Udugama Police came to Gamini's residence in search of him. When the police officers called Gamini he went to the officers who were stationed in front of the house. Without warning or explanation the police officers started to assault him. At no time was Gamini given any reason for his arrest nor was he questioned about any matter. Gamini was severely traumatised due to the torture he was subjected to and fell unconscious.

Gamini later identified one of the police officers as Wijenayaka who was involved in his torture. Later Gamini was brought to the Udugama Police Station by the police officers.

The police officers took Gamini to the Udugama Government Hospital where the doctors advised them to admit him. He was admitted and immediately transferred to the Karapitiya Teaching Hospital for further treatment.

Later Gamini observed that several police officers came to provide security for him and it was only then that he understood that he had been remanded by the Magistrate's Court of Baddegama after his admission to the hospital. After being discharged from the hospital he was taken to the Galle Remand Prison and remanded at 'Ward H' at the prison. Gamini learned that Udugama Police had filed a fabricated case against him for unknown reasons and later sought the remand order from the court. Gamini believes that police officers wanted to prevent him from making a complaint against them for torturing him by remanding him.

Gamini was also subjected to severe torture in the prison. He explained the difficulties that he faced at the Galle Remand Prison as follows:

"Prison is very ideal to describe as a torture chamber. At school we were told that human beings have rights. But in prison not even a single right was respected. In prison only 8 – 10 buckets of water was provided to bathe. Prison officers assault prisoners immensely. The beauty that is shown in the television does not exist there. Every illegal drug is freely available inside the prison. But we do not know as to how they are brought inside. The prison is always overcrowded and so we could not eat the food provided there. Prisoners are not treated as human beings."

Later Gamini was released on bail and had to undergo medical treatments.

Gamini has complained against the violation of his rights to all the relevant authorities in the country but none of them have initiated an investigation against the police officers who committed several crimes against him. Gamini states that he was illegally arrested, severely tortured, detained and had fabricated charges filed against him. Gamini states that justice was denied to him.

HORANA: Student tortured at Horana Thakshila Primary School

"Shashendra states that the teacher never questioned him or accused him of committing any crime before, during, or after the assault. Further he was not given any reason for the beating."

A student, Uve Adikarige Shashendra Sampath of Horana Thakshila Primary School was severely tortured by a school teacher on 20 October 2011.

Shashendra is permanent resident of "Sethsevana", Poruwadanda, Horana in Kalutara District. He studied at Grade 9 of the Horana Thakshila Primary School. On 20 October, as usual, Shashendra attended school. While Shashendra was in his classroom, a teacher, Miss Mali who is also known as 'Podi Miss' came to him and searched Shashendra's pockets. The teacher found a hundred rupee note in one of his pockets.

The teacher then questioned Shashendra as to why he had a hundred rupee note in his possession. Shashendra explained to the teacher that it was money that he had brought from home. He further explained the teacher that he brought the money to buy a birthday card for one of fellow students and for a reload for his mobile.

Without warning or further questioning the teacher started to slap the child. She then brought a cane and started to beat Shashendra severely. Shashendra was beaten more than 20 times with the cane. He suffered severe pain and started screaming, begging the teacher not to beat him. However, Miss

Mali ignored the pleading of the child and continued with the beating.

Shashendra was beaten in front of hundreds of fellow students. He was severely traumatised both mentally and physically by this ill-treatment by his teacher which under the CAT Act (Act No. 22 of 1994) constitutes torture.

As a result of the beating Shashendra suffered several injuries on his legs, back and buttocks. Several of the wounds on his legs started to bleed. With the assistance of fellow students and some teachers Shashendra was brought to the Horana Government Hospital and in turn transferred to the South Colombo Teaching Hospital for further treatment.

While Shashendra was treated in the teaching hospital the Judicial Medical Officer (JMO) examined him and clearly noted several marks of injuries on his body. Shashendra noticed that the JMO clearly noted six major marks of injuries on the calves caused by the caning.

Later the doctors referred Shashendra for further examination at the Ear, Nose and Throat (ENT) clinic of the hospital for further examination. However, this report is still pending.

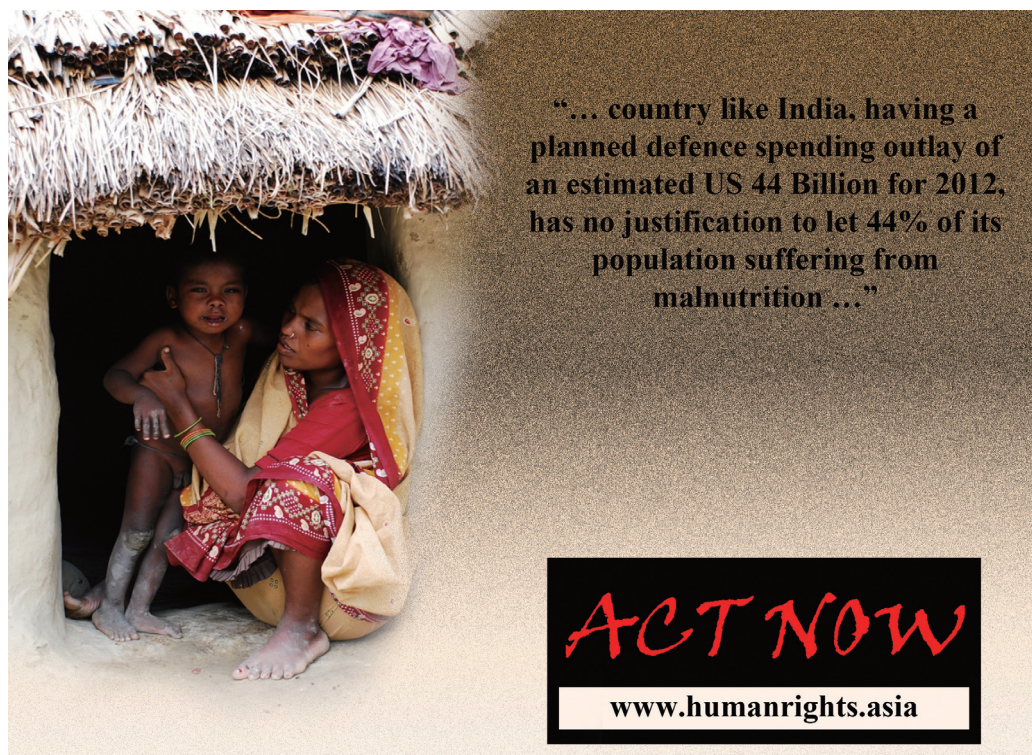
Shashendra states that the teacher never questioned him or accused him of committing any crime before, during, or after the assault. Further he was not given any reason for the beating. According to the law of the country, corporal punishment has been criminalized by law and torturing students at school is supposed to have been completely

prohibited. It is considered a punitive action. When it comes to disciplinary action, this can only be instituted after an inquiry by the disciplinary teacher of the school or the disciplinary committee appointed by the principal. Quite apart from the law being introduced recently corporal punishment at schools was prohibited as long ago as 2005 by the regulations of the educational department.

Shashendra states that neither the principle nor any teacher who holds such disciplinary authority inquired anything before or after the assault on him. He further states that he believed the teacher punished him with cumulative anger, the cause of which is unknown to him as yet. Shashendra also states that two days before this incident (18 October) he was verbally abused by the same teacher. The behavior of the teacher terrorised not only Shashendra but the other students as well.

Shashendra states that while he was treated in hospital he learned that the teacher who is from Weligampitiya in Pokunuwita in Kalutara District, was later arrested by the Horana police. She was then produced before the Horana Magistrate and later released on bail on the same day with two sureties. If convicted of torture under the CAT Act she is liable to serve seven years of rigorous imprisonment and fined Rs. 10,000/=.

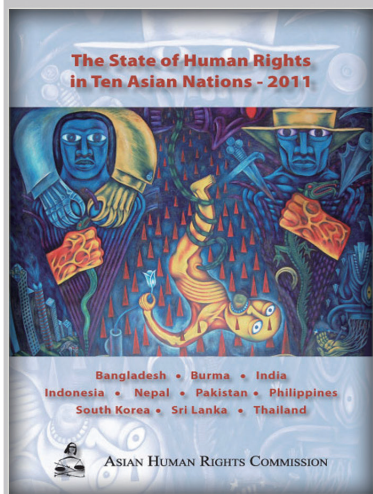
Shashendra and his parents appeal to the law enforcement authorities of the country to initiate an investigation into the incident impartially and prosecute the perpetrator under the relevant legal provisions.



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COVER STORY: INTERVIEW

Basil Fernando (© AHRC Photo)

YOU CAN'T HAVE BAD GOVERNMENT AND TORTURE FREE SOCIETY - BASIL FERNANDO

Mr. W.J. Basil Fernando is a Sri Lankan born jurist, author, poet, human rights activist. He is author of dozens of books and has published hundreds of essays on politics, literature and human rights, and presently is Director of Policy at the Asian Human Rights Commission. In this interview he shared some basic ideas about torture and how we can achieve a torture free society. According Mr. Fernando, compared to the last few decades, most Asian countries have achieved progress in realizing values of good governance. Here is extract of our interview;

What is torture?

Torture is use of any kind of physical or mental pressure by state agencies. It is

important to recognize that the agency, either police or the military or any other agency which has devolved power from a State in order to achieve an objective of the State, either to collect information or to intimidate people or to harass them or anything similar to those aims, may be motivated by torture.

So as far as the definition is concerned, I think everything is very clear for the Government and also for at least lawyers and other legal personnel to appreciate that torture is something that should not happen. It is a very simple definition and quite open. What is important to understand is that the State simply doesn't have a right to carry out any form of physical or psychological torture on any one.

However there is a widely accepted definition of torture, internationally, set out in Article 1 of the United Nations Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT): "... 'torture' means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."

Can you explain more about Torture from the point of view of the rule of law?

The whole question of legality means - something that the law has the power to do in a democratic country where the rule of law is the authority. Only legitimate law which is mandated by the parliament in a democratic style could be implemented. The parliament which is the product of the rule of law cannot accept that you can torture one another. Torture is illegal and is a crime. It is also immoral and is completely unacceptable. It is against the very idea of law. Law cannot tell you to assault people or kill people.

Well, you talked about State agencies and their activities, but if we turn to the other side of the coin it is very clear, that non-state actors, for example various militant movements are continuously engaging in torture. So why are we always highlighting one side, while sidelining the other?

Here again we should not confuse the prime responsibility of the State and its supportive agencies with various kinds of militant movements. Some movements seek changes in government, but they don't advocate violence as their principal objective. It's obvious that the use of violence will not achieve sustainable solutions for rooted problems.

"The majority of torture doesn't occur for political reasons. It more often takes place in order to conduct criminal investigations so in that process, instead of properly investigating a crime and using methods of investigations, through the use of forensics and other methodologies, people are just beaten and forced to confess."

As far as Asia is concerned, the predominant power is the State and if the State is not torturing people I don't think any non-state actor is going to either. That doesn't mean I'm trying to justify any use of torture by non-state actors, but before we come to non-state actors we have to be concerned about the State. In fact, non-state actors are a minor aspect of the wider problem. The majority of torture doesn't occur for political reasons. It more often takes place in order to conduct criminal investigations so in that process, instead of properly investigating a crime and using methods of investigations, through the use of forensics and other methodologies, people are just beaten and forced to confess.

There may be some militant groups in small areas where members engage in torture to control those areas. In that sense those groups are also responsible for it, but we should not and cannot put this on equal footing with the State because it is a very minor problem compared to state agencies and their acts of torture. Obviously, we

cannot use militant organizations to justify the State's and its agencies' use of torture. So first of all we must concern ourselves with the major controller of society. In most societies the major controller is the government and therefore we should be concentrating more on the responsibilities of governments. The government is a core notion of freedom.

Torture is endemic. Do you identify with this?

That is also factually not an accurate statement because when you say endemic it means that they use torture for everything like they do in less developed countries. If you catch a thief, you will start beating him up. That kind of torture is finished, by and large, in most developed countries. Today, crime investigation is done with questioning, finger prints, and scientific methods and they have to go to court to prove cases with evidence, which is a significant achievement in human society. It took years to develop effective investigation techniques for crimes while accepting the core notions of common law.

The system needs to be changed in developing countries. When you are talking about developed countries and how their processes of torture prevention evolved, it is a model for other countries as well. However, many developing countries do have laws accepting that torture is criminal, but the decline of law and order is closing the door on torture prevention, as well as other basic fundamental rights. What do you say?

There is a lot of history which is important to go understand on this subject. Just a century ago, use of torture was widely accepted. The development of new legal systems took place much later and with that the idea of the fair trial was developed. That is, if you convict a person you must do so

with reliable evidence. With that grew the prime notion that evidence received through torture is unreliable. In the meantime, there has also been a general spread of science and communication.

People began to go to doctors. When they go to doctors they normally don't go to the types they went to in the past, instead looking for someone who has scientific knowledge. So too did this new way of thinking come to the Justice System. Institutions of justice must also function on a rule of law basis or on the basis of rational argument, and nothing else, so this whole revolution took place in terms of modern consciousness.

"We don't want that kind of police; we don't want those kinds of courts which accept these things, but we want something that we can respect."

The compelling reason for eliminating torture has very long history. In different countries there was legislation and people said this was unacceptable. "We don't want that kind of police; we don't want those kinds of courts which accept these things, but we want something that we can respect." With that, an idea of administration of justice can be rationally respected. What has not happened in Asia is that these institutions of justice, including police investigators, their prosecutors, and the judges, have not been able to receive the same respect because they, directly or indirectly, accept the old methodologies. The same thing was happening in developed countries for a long period of time, but their tremendous struggle motivated them to develop genuine systems of justice which can be respected. Most Asian countries are yet to achieve this and an unacceptable system continues to exist. The policeman behaves like a barbarian. The policemen are taking bribes in order to assault

a person and these kinds of barbarous acts continue to exist in the name of police, and sometimes military, action, which must be stopped. We cannot have good governance that will be respected by the people as long as these kinds of methods are being used by the State.

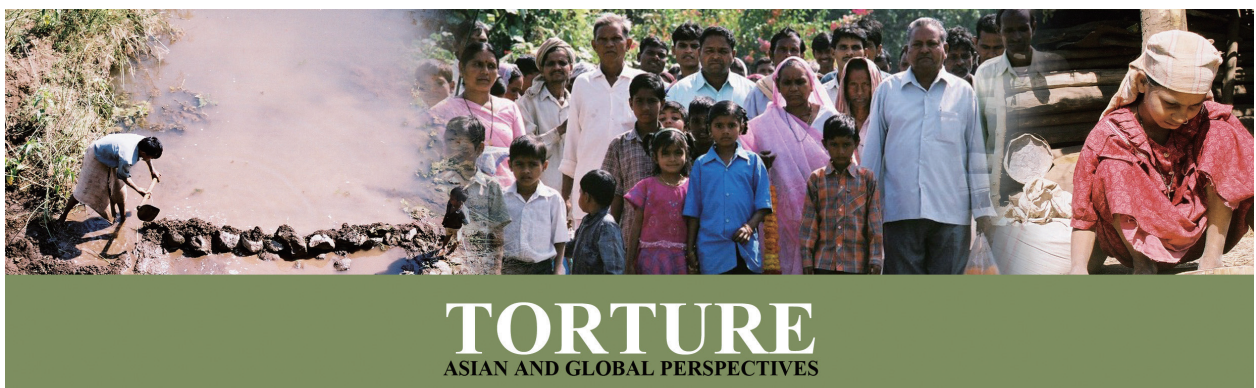
You can't have bad government and a torture free society, though these all combine and overlap each other. This is how you develop consciousness for overall political change in these countries.

Do people need to struggle against this trend to archive good standards?

There needs to be greater realization amongst governments, appointed by the people, that it is their duty to change. The idea of change should flow from top to bottom. It is not possible to achieve this kind of change by some kind of direct confrontation. There has to be an understanding by the State to stop torture and other forms of human rights violations.

How can we trust the Government, though? Nowadays the electoral system is fraught with "cynical manipulations" so aren't we unable to see real facts to confirm social trends?

I agree with you to some extent, but we have to find a solution within the system, though we cannot adopt a new system of the old system. We have to find a way to change the root of the problem while using the small path, which is only an entry point. Without understanding or sincerely addressing the real situations of each society we will not be able to find solutions for any problem. The very central part of manipulation is torture. In other words, through use of these methods you create manipulatable systems, or manipulatable systems create torture, but you cannot give one formula and say, "Do it this way." If people want freedom, people have to find a way against the system. You can't have bad government and a torture free society, though these all combine and overlap each other. This is how you develop consciousness for overall political change in these countries.



COVER STORY: OPINION

UNCAT: SRI LANKA EXPERIENCE

Periodic review of the States Parties' performance under the UN Anti-Torture Convention: Sri Lanka experience

Sergey Golubok (© AHRC Photo)

BY DR SERGEY GOLUBOK¹

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment² provides for periodic reporting of the States Parties “on the measures they have taken to give effect to their undertakings under [the] Convention”³.

The States Parties’ periodic reports are considered by the Committee against Torture (hereinafter, “the Committee”), a treaty body which consists of ten independent members who have “high moral standing

and recognized competence in the field of human rights”⁴.

Consideration of the States Parties’ periodic reports is facilitated by the list of issues prepared by the Committee and notified to the State Party concerned in advance. That list includes questions on which the Committee would like to receive additional clarifications from the State Party’s delegation. It is a new practice of the Committee to produce the list of issues prior to the State Party’s reporting⁵ in order to receive (ideally) the reports which are better focused on the matters under the Convention of real importance for this or that country.

1 LL.M. in International Human Rights Law (University of Essex, United Kingdom); Attorney-at-Law, St. Petersburg Bar Association (Russian Federation); Representative of the Asian Legal Resource Centre at the 47th session of the Committee against Torture (Geneva, November 2011).

2 Adopted by the UN General Assembly Resolution 39/46 of 10 December 1984 (hereinafter, “the Convention”).

3 Article 19 § 1 of the Convention.

4 Article 17 § 1 of the Convention.

5 Rules of procedure of the Committee, adopted at its first and second sessions, amended at its thirteenth, fifteenth, twenty-eighth, and forty-fifth sessions (hereinafter, “the Rules”), rule 66.

The State Party's report and the list of issues are made public by the Committee, and everyone interested may make his/her/its views on the matter known. The civil society organisations and other actors (such as national human rights institutions, bar associations, and even single individuals) can use this opportunity to rebut the information provided by the State Party, explain its inconclusiveness, or provide the Committee with new data. Many organisations go so far as to write their "shadow reports". In many senses, those proceedings have characteristics of being adversarial – the State Party's "official" report is countered by "shadow" ones.

The report is then discussed (normally for two days) at the session of the Committee, in public⁶. To maintain the quasi-adversarial character of the proceedings, the civil society representatives are allowed to speak to the Committee members at the same session, but separately and in private (to protect them from possible reprisals on the part of the Government).

Following the introductory speech, normally by the head of the respective State Party's delegation, the Committee members (two of whom are appointed as country co-rapporteurs) pose their questions. The idea is to have an "interactive dialogue"⁷ between the governmental delegation and the Committee experts. If need arises, there can be more than one round of questioning.

In November 2011, at its 47th session held in Geneva, the Committee reviewed the periodic report submitted by Sri Lanka⁸.

At least twelve shadow reports have been submitted to the Committee by the international and national human rights groups⁹.

The questioning by the Committee and the responses made on behalf of Sri Lanka are summarized in the report published by the Asian Human Rights Commission¹⁰.

It is important to emphasize unconstructive stance taken by Mr Peiris, former Attorney General of Sri Lanka, who led that country's delegation at the 47th session of the Committee. His lengthy and repetitive interventions have been rightly characterized by the Asian Human Rights Commission as "a long tedious lecture on the law in Sri Lanka instead of answering questions [from the Committee members] which were about factual situations and actual violations"¹¹. Unfortunately, there is no possibility for the Committee to stop this circumvention of due process given that for the reasons of diplomatic courtesy the representative of the sovereign State cannot normally be interrupted.

There is also a room for criticism towards the Committee itself. Their questioning could have been more focused. In fact, avalanche of questions posed by them to the Sri Lanka delegation permitted the latter to avoid responding to some of them at all. Many of the Committee members repeated themselves or their colleagues. Seasoned legal practitioner of Mr Peiris' experience skillfully used every chance to

⁶ Rules, rule 68.

⁷ Rules, rule 70.

⁸ UN Doc. CAT/C/LKA/3-4. For the Committee's list of issues in respect of that report see UN Doc. CAT/C/LKA/Q/3-4 and UN Doc. CAT/C/LKA/Q/3-4/Add.1.

⁹ Available at the Committee's website: <http://www2.ohchr.org/english/bodies/cat/cats47.htm>.

¹⁰ See: Human Rights Report – 2011. The State of Human Rights in Ten Asian Nations (Hong Kong: Asian Human Rights Commission, 2012), at pages 489-509.

¹¹ Ibid., at page 438 (citing from their statement AHRC-STM-170-2011 of 9 November 2011).

take advantage of all those possibilities to turn the Committee proceedings “into a theatre of evasion”¹².

It is important to note that, although the periodic review under the Convention supposes the analysis of the country situation in general, the Committee members did not hesitate to ask the questions about the individual cases. This approach, given that the State delegation is forced to give answers in open session, allows the members of the public, for example, the relatives of disappeared to confront the Government officials and to follow-up with them as to the fate of their loved ones¹³.

“First of all, it is a direct opportunity to challenge the State in an independent setting, to confront its data and conclusions”

The individual cases discussed at the Committee table were also mentioned in the concluding observations on Sri Lanka¹⁴. However, the lack of focus in the Committee questioning has predictably affected that document as well. Among the really important recommendations aimed at the restructuring of the law-enforcement institutions, such as establishment of an independent body to investigate the cases of alleged police violence¹⁵, the Committee preferred to repeat itself making recommendations that it usually makes in such reviews such as on issue of *non-refoulement*¹⁶ although it is hardly of any relevance for Sri Lanka.

12 Ibid.

13 See, for example, the letter of Sandaya Eknaligoda dated 14 May 2012 reproduced in: <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-105-2012/?searchterm=Eknaligoda>.

14 UN Doc. CAT/C/LKA/CO/3-4, § 13.

15 Ibid., § 18 (a).

16 Ibid., § 27.

In spite of all its weaknesses, periodic review before the treaty body specializing in the issues of torture and other serious forms of ill-treatment provide rare opportunity for the involved civil society groups to make themselves heard at the international stage.

First of all, it is a direct opportunity to challenge the State in an independent setting, to confront its data and conclusions. If well prepared, such challenge can lead to the significant role in shaping the Committee’s concluding observations on the country’s performance which, in turn, will serve as a main reference point on the issue during several subsequent years. It is in everyone’s interest to put the international record straight and not to allow it to be manipulated by the governmental functionaries alone.

Further, the Committee’s concluding observations may become a source document for international litigation in the future. In case of Sri Lanka this litigation can be done before the Human Rights Committee (for example, alleging violations of article 7 of the International Covenant on Civil and Political Parties) although non-cooperation of the Government of Sri Lanka with that treaty body leads to the problems of its own and is a separate issue to be tackled.

Finally, focused and well-founded concluding observations can strengthen the whole Convention architecture, as they are an important tool for the Committee to review the States Parties’ compliance with their international legal commitments. And, if necessary in the circumstances, it is imperative for the Committee to get rid of diplomatic nuances and call snake a snake without lip service and any further ado. After all, if the countries’ review by the Committee is akin to a university exam, some students must fail; otherwise higher education is not worthy of its name.

COVER STORY: STUDY BY DAYA SOMASUNDARAM

Daya Somasundaram was a Senior Professor of Psychiatry at the Faculty of Medicine, University of Jaffna and Consultant Psychiatrist working in Northern Sri Lanka for over a decade. He has also worked in Cambodia for two years in a community mental health programme with the Transcultural Psychosocial Organization. Apart from teaching and training a variety of health staff and community level workers, his research and publications have mainly concentrated on the psychological effects and treatment of disasters. His book, Scarred Minds, described the psychological effects of war on individuals. He received the fellowship of the Institute of International Education's Scholars Rescue Fund, UN plaza, New York, USA in 2006-8. He is a Fellow of the Royal College of Psychiatrists, UK; the Royal Australian and New Zealand College of Psychiatrists and Sri Lanka College of Psychiatrists. He is currently on sabbatical in Australia working on a book, scarred communities as well as a consultant psychiatrist at Glenside Hospital, Supporting Survivors of Torture and Trauma (STTARS) and Clinical Associate Professor at the University of Adelaide.

Lanka College of Psychiatrists. He is currently on sabbatical in Australia working on a book, scarred communities as well as a consultant psychiatrist at Glenside Hospital, Supporting Survivors of Torture and Trauma (STTARS) and Clinical Associate Professor at the University of Adelaide.

MANAGEMENT OF PSYCHOLOGICAL CONSEQUENCES OF TORTURE IN SRI LANKA

BY DR. DAYA SOMASUNDARAM

University of Jaffna, Sri Lanka

Abstract

Torture became institutionalized as a routine aspect of the conflict in Sri Lanka. Use of physical and psychological methods of torture was widespread in an effort to control society through terror. Many do not survive torture, but those who do develop various physical complications, psychosocial symptoms and psychiatric sequelae. Of the psychiatric complications, somatization, PTSD, Depression and Anxiety are common. It may be possible to help these individual torture survivors through medical treatment, psychotherapy, traditional healing methods, relaxation exercises, expressive therapy, family therapy and socio-economic rehabilitation. But not only individuals, but their families and community are affected. On a collective level, communities can be strengthened through creating awareness, training of community level workers, cultural rituals, social justice and social development. However, it would be much more effective in the long-term to prevent torture by implementing UN conventions and developing professional and social attitudes against the practice of torture.

"Torture has always been an instrument of war. It is today once again the means for maintaining a particular kind of 'peace' and to achieve social control through coercion or terror. The state

has established itself as a contemporary secular inquisition in many countries. The suffering of the individual is thus the torturer's access to the community. The victims of torture are always

individuals, but never individuals alone. For every person detained, there are mothers and fathers and wives and children who wait. Just as significantly, they deprive the individual of community by attacking the trust and coherence which made the fabric of any society."

- British Medical Foundation
(Schlapobersky, 1988) ^A

Then, after the resumption of active warfare from 2006-2009 when torture again became rampant, the incidence of torture appears to have declined dramatically. There is no systemic nature to torture any longer."

Introduction ^B

Torture has become institutionalized as a routine but extreme method to control individuals, dissident groups and society by those who aspired to govern. This was particularly so when their grip on power began to slacken and other methods of control appeared to be failing. For those in power, torture had become more than a barbaric means to obtain information, beat out a confession, or to punish the enemy. It is far more than mere police brutality. It has rather developed into a physical and psychosocial tool to break the individual personalities of those to who tried to resist as well as an encompassing socio-political method to coerce a community into submission by terror. As far as the Sri Lankan State was concerned, torture used to be a routine procedure for all detainees whether guilty or innocent¹.

"The legal and actual situation regarding torture in Sri Lanka has showed a marked improvement with the peace process from 2002.

Many individuals do not survive torture, but those who did are released in a broken condition; or when dead, their maimed bodies were conspicuously exhibited to act as a warning to others. Torture became one aspect of institutionalised violence and laws were passed (for example in Sri Lanka, the Prevention of Terrorism Act (PTA) and earlier, Emergency Regulations (ER), which facilitated prolonged incommunicado detention without charges or trial, in locations and conditions entirely at the discretion of the Security Forces, and allowed for the disposal of bodies of victims without judicial inquiry) which legitimised torture and death in custody.² It has been pointed out that Clause 60 of the Emergency Regulations and Clause 18 of the PTA Act allowed the security forces to use confessions. Hence the PTA and ER encouraged armed forces and police to use torture as a method for obtaining confessions. Although ER has now been officially removed, PTA continues to be in force and security system is able to practice torture with impunity. Suspects often signed such concocted confessions under extreme pain to stop the torture process, often not even knowing what they were signing in a

A. Schlapobersky, J. (1988) Torture as the perversion a Healing Relationship. Paper presented at the American Association for the Advancement of Science, Annual Meeting, Boston.

B. This paper was modified from: Somasundaram, D. (2008) Psycho-social aspects of torture in Sri Lanka. International Journal of Culture and Mental Health, 1:1, 1-14, 10-23. & Somasundaram, D. (2010) Torture in Sri Lanka- A method of physical, psychological and socio-political terror under PTA. In Bastiampillai, B., Edrisinha, R. & Kandasamy, N. (eds.) Prevention of Terrorism Act (PTA): A Critical Analysis. Centre for Human Rights and Development (CHRD), Colombo, pp. 73-116.

foreign language^C. However, courts are now increasingly refusing to accept such forced confessions and the ER is no longer in force. Another feature encouraging torture was the impunity enjoyed by the torturers. Although Sri Lanka is a signatory to the UN Convention against Torture and is specifically banned in its constitution, so far no one has been actually punished.³ Indeed, many torturers have been promoted or otherwise rewarded. Obviously, the fact that torture is going on is known to the higher (even highest) ranks, so much so that there is unofficial sanction. As the actual responsibility goes right to the top, it becomes difficult to punish as scapegoats, a few low rankers who may be just carrying out the torture. The state also faces the issue of compensation to victims once it starts to admit its liability. In the final analysis, the whole system would be responsible, even civilians who take a complacent view, feeling that torture may be necessary. Many rationalize that somehow those tortured 'deserve' torture as there must be some reason for their arrest in the first place. They will thus not actively oppose torture. Torture has become part of the subculture of the security apparatus where police or military personnel routinely torture those taken into custody, detained or even without detention, or those who come under their power as a procedural mechanism. It is not considered there is anything amiss or wrong in torture. Thus, those joining the national security system, including the police, afresh are quickly inducted or socialized into this subculture. In relation to the non-state militants, like the LTTE^D, who practiced torture, there was no question of legal redress or punishment; nor do they come under the purview of international conventions. In

the case of militants, torture was but one part of their whole totalitarian system and they used it more against members of their own community, again as a form of social repression and community control through terror.

In Sri Lanka, the use of drugs like sedatives or general anaesthetics, to extract information or create mental confusion, necessarily implicated medical professionals. By treating or giving first-aid to injured victims in custody, where of torture continues subsequently, medical personnel also inadvertently collude with the torture process.

The legal and actual situation regarding torture in Sri Lanka has showed a marked improvement with the peace process from 2002. Then, after the resumption of active warfare from 2006-2009 when torture again became rampant, the incidence of torture appears to have declined dramatically. There is no systemic nature to torture any longer. It would appear that with the end of the war, the state and security forces no longer feel any threat from the ethnic minorities. They no longer see any need as there is no organized resistance. There is no longer the routine procedure for political prisoners, though it continues to be used to obtain vital information, those seen as hard core enemies of the state such as dissidents and opposition, as well as in ordinary criminal suspects. For example, many of the Tamil ex-combatants who surrendered and were then 'rehabilitated' before being released do not report torture. The fate of those who have not been released is not known. Those who were killed at the end of the war appear to

C. In Sri Lanka, though the majority speaks Sinhalese, it was the minority Tamils who were involved in the rebellion against the Sinhala state. It was the Tamils who were often arrested, detained and tortured for a confession written in Sinhalese. Thus they did not often what they were signing in their so called confessions.

D. LTTE- Liberation Tigers of Tamil Eelam, the dominant Tamil militant organization that was defeated comprehensively by the state in May, 2009

have undergone torture. The credit for the decrease in the widespread use of torture should go to international and local human rights organizations and individuals who have been campaigning against torture for a long time. The price has been heavy, including the lives of committed human rights activists. This is proof that though such activity takes long time to bring about change, it can be done.

“During torture and imprisonment the aggressions of the victim are by necessity turned inwards, and there is no possibility of adequately expressing emotions. As time goes by, the events may to an extent be repressed, leaving a feeling of discontinuity in the victim’s personality. Some of the experiences are remembered as profound humiliations.”

The inner logic of torture

The inner resistance, ideological commitment, identity, self-respect and personality of an individual are all systematically destroyed by a judicious mixture of physical and psychological pain. Control of the mind through fear and terror appears easier and more direct rather than through persuasion and propaganda, which, being subtle, are more effective in the long run. Those in power just do not believe that these non-violent methods actually work nor are they patient enough. If torture is to be prevented, it can only be done by convincing organisations and governments that it is in the long run not cost-effective. The investment torture entails in time, money, personnel and administration is not commensurate with the returns. Further the

survivors are seldom completely subjugated. They retain a core of their personality that is amenable to psychotherapeutic recovery. Society itself reacts with more defiance rather than submission and most damaging of all is the adverse propaganda internationally by human rights organisations.

Often a historical pattern can be recognised in the evolution of the methods of torture. Physical beating and other crude methods causing gross physical injury like fractures, bleeding, scarring etc are resorted to in the beginning. This is usually a development from police brutality, but more systematic and targeted against a particular group with political overtones. In time, the methods become more sophisticated and refined, the pain more excruciating but are scientifically applied leaving no tell tale scars. Schools of torture, expertise, special instruments, skills and techniques have become a world-wide phenomenon. For example, this gradation in sophistication was seen first in the Sri Lankan Security Forces, then with the Indian Army and most tragically among the various local militants. Current methods leave minimum proof of torture for the Human Rights Organisations to document. A curious method used locally is called ‘Dharmachakra’;⁴ or the ‘parrot perch’;⁵ or ‘jujuyekbab’ (fried chicken) in Iran, where the victim’s wrists are tied together and then suspended in a bent position so that a pole can be passed simultaneously through the crook of the bent knees in front of the elbows (see fig. 1 which is a drawing by a victim). When rotated rapidly like a wheel, there is intense pain to the body but the only evidence will be healing abrasions at the wrist. There is often mental confusion that reduces the mental resistance of the person, making it more likely that they will cave in. The paradoxical use of the Buddhist spiritual term *Dharmachakra* for this type of torture is psychologically revealing.⁶

Table 1 Physical Types of Torture in Sri Lanka

Torture types	Colombo n=69		Jaffna n=21		Vavuniya n=160		London n=184	
	No.	%	No	%	No	%	No	%
Beating, kicking, striking with objects			21	(100)			+	
Trunk, limbs	69	(100)			+			
Head	38	(55)			+			
Genitalia	8	(12)	4	(19.5)	+		26	
Binding with rope	67	(97)	20	(95)				
Suspension from a bar	36	(52)	16	(76)	+			
Burning by lighted cigarette or hot objects	8	(12)	6	(29)	+		+	
Falanga – beating under the soles of the feet with rods	18	(26)			+			
Dry submarino- head covered with shopping bag tied Round neck – petrol or chili powder introduced onto bag	16	(23)			+			
Wet submarino – submersion of head in water –often Polluted water	6	(9)						
Asphyxiation			12	(57)				
Telefono – striking the victim's ears	12	(17)			+			
Application of electricity	8	(12)	3	(14)	+		3	
Forced to eat paper, burnt human flesh	2	(3)						
Sexual assault	2	(3)			+		38	(21)
Rape					+		11	(5)
Pricking under nails with needles, extraction of nails	4	(6)	5	(23)	+			
Objects (wires, bottles) inserted into anus, vagina					+		+	

Table 1 gives an indication of the variety of physical methods of torture used in Sri Lanka as found in studies in torture survivors in Colombo,⁷ Vavuniya,³ Mannar,⁸ Jaffna⁹ and London.¹⁰

Due to the physical methods of torture, somatic symptoms of pain-musculo-skeletal, over scar tissue in the head, back, soles, hands, in healing contusions and fibrosed tissue are very common as are those of a psychosomatic nature such as headache, muscular tensions, dyspnoea and chest pain, dyspepsia and backache. Indeed persistent somatoform pain disorder (56%) was the commonest psychiatric disorder next to PTSD (74%) in a study of torture survivors in Nepal.¹¹ Common Physical problems and Somatic complaints found in torture survivors in Sri Lanka are shown in Tables 3 & 4 respectively.

Physical methods of torture produce psychological effects. The acute and chronic pain produced by torture can lead to distortion of the body image. Many learn to survive by dissociating their mind from their body. A useful technique is hyperventilation which causes changes in the blood alkalinity and calcium, thereby facilitating dissociation or brings on unconsciousness. But this state of alkalosis and hypocalcemia can itself cause many bodily symptoms and abnormal sensations.

Among psychological methods of torture, deprivation is produced in Sri Lanka by solitary confinement, confinement in small unhygienic and crowded spaces for long periods, prevention of communication with others, especially relatives (incommunicado), inaccessibility to books, newspapers, radio, sleep deprivation, food deprivation, water deprivation, lack of exercise, continuous

Table 3 Physical Problems in Torture Survivors

	Colombo n=69		Vavunia n=160	
Common physical problems	No	%	No	%
Skin Disease (scabies and ring worm)	30		89	(56)
Arthralgia – Shoulder	38	(55)		
-Lower back	32	(46)		
-Other joints	33	(48)		
Visual Problems	18	(26)	89	(56)
Dental Problems	18	(26)	66	(41)
Impaired Hearing	4	(6)	55	(34)
Swollen, painful soles & heels	8	(12)	11	(7)
Coughing blood			6	(4)
Vomiting blood			4	(3)
Malunited fractures	2	(3)	21	(24)

Table 4 Somatic complaints in torture victims

	Colombo N=69		Vavunia N=160		Mannar N=173	
Complaints	No.	%	No.	%	No.	%
Headache	46	67	88	(55)	59	(34)
Aches and pains	26	(38)	103	(54)		
Abdominal pain	22	32	20	(23)	34	(20)
Chest pain	18	(26)	103	(64)	129	(72)
Dyspnoea	2	(3)			115	(66)
Excessive sweating			74	(40)	107	(62)
Numbness or tingling sensation					96	(55)
Fainting and giddiness	12	(17)	15	(9)	120	(69)
Palpitation					138	(80)
Physical inability					25	(15)
Tiredness	16	(23)	139	(86)		
Loss of appetite	22	32	110	(69)	94	(54)
Loss of weight	8	12			126	(79)

exposure to light or darkness and other forms of sensory deprivation to reduce environmental stimuli. According to a RCT^E report, “During deprivation the victim suffers from cognitive disturbances, disorientation in

time and space, difficulty in concentration, poor memory, weakness, exhaustion, malnutrition and infectious diseases and in some cases psychotic reactions with hallucination. Long-term sequelae may be weakening of identity and emotional

E. Rehabilitation Centre for Torture Victims

Table 2 Psychological Types of Torture in Sri Lanka

Torture types	Colombo n=69		Jaffna n=21		Vavuniya n=160
	No.	%	No	%	
Verbal abuse			21	(100)	+
Humiliation					+
Blindfolding	58	(84)	13	(62)	
Threat of more torture			21	(100)	
Threat of death			20	(95)	
Forced to witness torture of others	46	(67)	19	(90)	+
Forced to witness killing of others	8	(12)			+
Incommunicado					+
Poor Hygiene			18	(86)	+
Sleep Deprivation			16	(76)	+

instability."¹² Psychological techniques make the victims experience severe humiliations, which force them to see their dignity and identity completely destroyed.¹²

The effects of the psychological techniques are multiple and long-lasting. The methods represent deep attacks on the identity and dignity of the victim, and are closely linked with guilt, fear, loss of self-esteem, and repentance. During torture and imprisonment the aggressions of the victim are by necessity turned inwards, and there is no possibility of adequately expressing emotions. As time goes by, the events may to an extent be repressed, leaving a feeling of discontinuity in the victim's personality. Some of the experiences are remembered as profound humiliations. Some of the psychological methods of torture in Sri Lanka are shown in Table 2.

Much of the sequelae to torture are similar to the post-traumatic stress response syndrome and their pathological intensification where re-experiencing the torture again and again as intrusive imagery in the day time or as nightmares is the cardinal feature. Some survivors who have been released, fear

going to sleep as this will bring on the re-experiencing of the torture process. So they will fight off their sleep and when they do fall asleep, will have nightmares, waking up screaming which would waken others in the household. The following case history¹³ illustrates many of these aspects.

Mr. S.R 21 year old, is a student at the University, who came for treatment to the University Medical Centre with complaints of continuous severe headache, giddiness, loss of concentration and musculo-skeletal pain. On mental state examination, he was found to be suffering from severe Anxiety and Depression. Apparently he had been detained twice at various police army and navy camps in Trincomalee and Boosa for a total of over eight months during which he had been systematically tortured. These included being crowded into small rooms with large number of other detainees, stripped naked; kicked and beaten unconscious with boots, iron belts, batons and wooden poles, knotted wires, gun butts, and S-lon pipes on the head, face, finger joints, shoulders, hips, and knees, hung upside down and in a seated position for long periods: being deprived of food and water or made to 'eat' blood stained clothes, chilies and lick his own urine. As a result of torture he often had bleeding

lips and swollen face or both legs became so swollen & painful that he could not walk & had to be dragged by other detainees. On being released he had joined the University but found it difficult to concentrate or study. Repeated re-enactments of the torture experience as intrusive images with associated feelings of panic (dryness in the mouth, sweating, terror, palpitation, giddiness - he often lost consciousness in describing his experiences) were frequent. These images and memories were particularly triggered off by scenes or stimuli resembling or reminding him of his earlier experiences. For example, the barbed wire at the university, the white electrical wire connecting the fan; certain foods (such as bread and dhal); times such as 2 p.m. when they normally were given food at Boosa or at dawn when they were taken out for their ablutions; on anniversaries of his arrest; in situations of army activity such as round-ups, check points, fighting, tension, gunfire or shelling.

He actively tried to avoid such stimuli, events or reminders but despite all his efforts at resistance, these memories and images repeatedly intruded causing severe emotional upheaval (mainly

anxiety). He used to have very disturbed sleep, getting up screaming in the night in sheer terror, awakening everybody in the house. He had become chronically depressed with a deep painful sorrow, feeling of loneliness, a benumbed or paralyzed feeling, loss of hope in the future, the thought that he had reached the end, with ideas of suicide. A feeling of fear and insecurity was with him all the time with a tendency to get angry at the smallest thing, sometimes becoming very violent, breaking things. He had problems of socializing or mixing with other university students, even having difficulties with his own family. But for all this he had developed a strong sense of social service, wanting to help others and be of use to society. He had donated blood three times, he had gradually recovered with time, treatment and counselling but when events or situations resembling his earlier arrest or experience occurred the symptoms become worse, his state regressing to the old anxiety and depression with repeated memories and images of the torture with night terrors.

PTSD is common after torture, perhaps as many as 80% having diagnosable PTSD.¹

Table 5 Psychological Signs & Symptoms following Torture

	Colombo N=69		Jaffna N=21		Vavunia N=160		Mannar N=173		London N=184	
Signs and symptoms	No.	%	No.	%	No.	%	No.	%	No.	%
Recurrent Intrusive Memories			21	(100)	128	(80)	63	(36)		
Intensification of symptoms by symbolic association with Trauma			19		108	(68)				
Memory impairment	6	(9)	14		125	(78)				
Poor concentration	+		16			(78)	87	(50)		
Extreme Fear	63	(91)			106	(66)	76	(44)		
Low Self-esteem					92	(59)				
Sleep disturbance	24	35	12	(57)			73	(42)	+	
Frequent dreams			19				75	(43)		
Nightmares	12	(17)	15	(71)	91	(56)	81	(47)	+	
Extreme mistrust & Suspiciousness					80	(50)	12	(6)		
Irritability & Aggressiveness	32	(46)	13		74	(40)	38	(22)	+	
Change in ideology							28	(16)		
Suicidal Thoughts			5	(24)	61	(38)	18	(10)		
Suicidal Attempts			2	(10)	1	(.6)	8	(5)		
Social Withdrawal	+		7	(33)	61	(38)	33	(19)		
Crying					48	(30)				
Sadness			18		139	(87)			+	
Sexual Dysfunction	+			(50)	40	(25)	11	(6)		

Table 6 Psychiatric Sequelae in torture survivors

	Colombo N=69		Jaffna N=21		Vavunia N=160		Mannar N=173	
Psychiatric Disorder	No.	%	No.	%	No.	%	No.	%
Depression	46	67	16	(76)		(69)	14	(8)
Anxiety	31	45	12	(57)		(66)	89	(51)
Post Traumatic Stress Disorder (PTSD)			18	(85)	137	(86)	18	10
Phobia (blood, security forces, etc)	4	6	14		+		+	

Co-morbidity, such as somatization, anxiety and depression, are common. But in addition many show signs of personality destruction, deep suspicion and mistrust of the world, severe social withdrawal, impaired interpersonal relationships and poor social skills. Severe phobia, avoidance of any stimuli that evokes re-experiencing the torture, sleep disturbances with nightmares and night terrors, impaired memory and concentration are all frequent symptoms. The psychological signs and symptoms found in torture survivors in Sri Lanka are given in Table 5. The psychiatric sequelae are shown in Table 6.

“The social dimension of torture in an area affected by war is clear from a survey of the general population in Jaffna which showed that 1% of the population had been tortured.”

Many do not survive torture, but those who do, do so by adopting resilient coping strategies in the face of his/her severe and abnormal stress. The short and long-term neuropsychological sequelae to torture can be seen as ‘meaningful reactions for a sound and forceful constitution that make survival possible in a very pathological situation’.¹⁴ For most of these victims were robust and healthy youths who set out with idealism and altruism to change society for the better

and redress the injustices against their community. When we see them broken and helpless after torture, we have to accept that this is the price they had to pay to survive. It has been found that the long and short-term effects of torture are much more severe in those who were ‘innocent’ to start with before arbitrary arrest, detention and torture.

Most investigators report that these physical and neuropsychological sequelae show poor tendency for spontaneous recovery¹² leaving the victim physically, emotionally and socially handicapped for life. Fortunately, workers in the field have found that positive therapeutic intervention can help many of these ‘survivors’ to regain their self-respect and build a hopeful future.

Social

Unfortunately, in many third world cultural settings like in Sri Lanka, due to lack of understanding about the psychological consequences of torture, the stigma attached to acknowledging any form of mental disorder and the severe social withdrawal that is a sequelae to detention and torture, many who need help do not come forward for treatment. It may also be dangerous in situations of continuing conflict, to reveal the fact of torture, as there is a real risk of re-arrest. With the end of the war, more survivors are now coming forward, seeking help. The situation is different in western and first world countries where the survivors

may seek asylum. In these situations they may be more ready to seek help, particularly if it helps their asylum case.

They commonly 'somatize' their psychological and social problems in bodily terms and present themselves to general practice and out-patient departments with physical complaints.¹⁵ Some who find relationships difficult due to the 'benumbing' phase of PTSD, still develop a strong urge to do social service. The case history given above is of a university student who donated blood on a regular basis after the experience of torture.

The social dimension of torture in an area affected by war is clear from a survey of the general population in Jaffna which showed that 1% of the population had been tortured.¹⁶ In those coming to the Out Patient Department (OPD) for medical treatment, 8% had been tortured.¹⁵ This study indicates that many patients who seek treatment at the OPD are actually victims of war trauma who somatize their problem and seek help for physical complaints for what is essentially a psychosocial problem. Torture among adolescents is also high, our studies indicate 3-7% as having experienced torture.¹³

Interventions

In northern Sri Lanka, we have over time evolved a multidisciplinary, integrated, holistic approach¹⁷ to manage torture survivors. The overall management is tailored to fit the individual needs of the survivor and pace of functioning capacity. Medical treatment is indicated where there is obvious psychiatric illness like Post-Traumatic Stress Disorder (PTSD), Anxiety, or Depression. However, most survivors need other forms of therapy.

Screening

Many needed basic medical care like treatment of scabies, anaemia, infected wounds etc. In addition, a good number required specialized care and were referred to the appropriate clinic or consultant in the local General Hospital. These included Orthopaedics, Ophthalmology, Dermatology, Neurology, Surgery and Dentistry. Care was taken to avoid unnecessary medical procedures as these may trigger re-experiences of the trauma (Even coming to hospital, facing an authority figure like doctors, or undergoing X-rays, ECG's and blood tests may remind victims of their torture and can be extremely trying for torture victims). Women may need gynaecological opinion that must be handled with circumspection. A member of the multidisciplinary team, usually the social workers accompanied the referrals to NGO's, government and social agencies for the purpose of recording, documentation, legal and financial help and rehabilitation aid (see later). They helped with the bureaucracy, queues, questioning, and filling forms which they were not in a fit state of mind to face.

Psychotherapy

From the initial contact an atmosphere of mutual trust and therapeutic alliance was established. Basic counselling was sufficient and appropriate in a large number of cases. An opportunity to "*tell their story*" in a non-threatening and accepting atmosphere, express their repressed emotions, and receive the support and the warmth of the therapist was all that was needed. Brief psychotherapy, testimony method of therapy, bereavement counselling, crisis intervention, problem solving, relaxation techniques and other short term therapies were carried out where necessary.

Studies of victims of torture show considerable emotional and social handicap. These more severe symptoms needed longer therapy, sometimes extending to over 6 months. The individual's destroyed personality and identity, mistrust of the world, emotional and social withdrawal, and interpersonal problems were gradually addressed in a systematic way. The therapy was adjusted to the individual's need and pace of recovery. The aim was to build a trusting and sustained relationship within which the survivor could work through his or her experiences, make meaning of his or her present situation and look hopefully towards the future.

Spiritual beliefs and strengths have been found to make people more resilient. Thus a much more ambitious aim, termed logotherapy¹⁸ was to find meaning in what happened. For once meaning is found most survivors appeared to recover quickly. Cultural and religious beliefs, for example the doctrines concerning Karma and suffering, central to the Hindu system, were important. Traditional healers and resources such as priests, monks and healers were used to help the survivor.

Family therapy

Torture survivors were found to have disturbed relationships within the family, marital disharmony due to manifestations of post-traumatic symptoms like irritability, withdrawal, depression, sexual difficulties, repressed rage and suspicion. The principles of family dynamics were used to facilitate supportive and healing relationships while counteracting damaging and maladaptive interactions. Explanations of the physical, emotional and social problems that the survivor usually faces were given to create an awareness of the survivor's plight. The difficulties he or she would have in returning

to family and social life were explained. Particularly the benumbing symptoms, which made it difficult to make and sustain intimate relationships, were described. Family members were encouraged to be supportive and caring even when the survivor continued to be withdrawn, unresponsive and cold. The tendency to irritability, hostility and aggression were also explained natural sequence to the torture process. Torture survivors were encouraged to slowly take up their old roles and functions within the ambit of the protective family environment.

Cognitive-Behavioural methods

Cognitive-behavioural therapy (CBT) was very effective in the treatment of PTSD, especially in chronic PTSD, due to torture and for those not suitable for the 'talking therapy', counselling or psychotherapy. A specific form was the Narrative Exposure Therapy (NET) described by Elbert and colleagues¹⁹. Essentially, CBT amounted to systematic trauma desensitization by exposure, by having the survivor confront the traumatic event. After teaching the survivor relaxation methods (see next), a hierarchy of the details of the torture from that causing the most distress to lesser arousal was established. Then gradually the therapy works up the hierarchy, having the survivor call up the incident in visual imagery or otherwise while in a relaxed state. This form of exposure was done until the survivor was able to confront the particular incident of torture without distress. Then the next incident/event in the hierarchy is taken up for desensitization. Several sessions, were usually needed.

Relaxation Techniques

For use in Sri Lanka four basic methods were distilled out of the traditional practices after close study, practice and experience as they were found to be technically similar to

Jacobson's²⁰ and other well-proven relaxation techniques.²¹ The yogic *pranayamam* and Buddhist form of mindful breathing (*ana pana sati*) are culturally well known breathing exercises that produce conscious, deep, regular abdominal (diaphragmatic) breathing. The yogic *shanthi* or *sava asana* or Buddhist mindful body awareness produce progressive muscular relaxation.²² Similar to Benson's relaxation response²² and Transcendental Meditation (TM), repetition of mantra or *jappa* as well as the Christian *Rosary* or *Prayer beads* are culturally familiar and acceptable. For meditation, *dhyanam*, contemplation and other methods were used. In addition, traditional massage was used where indicated to induce states of relaxation:

Traditional Relaxation Methods used in Sri Lanka

1. Breathing exercises (Pranayamam, Anapana Sati or mindful breathing): The goal was to bring breathing under conscious control and make it deep, smooth and regular. The person was taught to observe his/her breathing as it flows in and out, to breath slowly, continuously and deeply. They were taught to concentrate on their abdomen slowly expanding (they could place the palm of their hand on their abdomen for this) while they draw in they breath deeply. Then, by allowing their chest and abdomen to relax the breath will go out automatically. A mantra or word (OM) was said such as O---M while breathing in and out. This can be done several times. Progressively, over months, the time taken to say the word was increased. Alternatively (when they found the above method difficult), the person was taught to count, say up to three, while breathing in and again while breathing out. The number can then be gradually increased.

2. Progressive Muscular Relaxation (Shanthi or Sava Asana, Mindful body awareness): The aim was to gradually relax each part of the body, step by step, until the whole body was relaxed. They were made to lie down flat, facing up, on a mat or bed. They were then taught to first concentrate their mind on their toes and while relaxing (loosening or letting go) say to themselves "My toes are relaxed, *"shanthi, shanthi, shanthi"*. In this way, move up their body - toes, soles, ankle, calf, knee, thigh, sexual organs, anus, abdomen, back, chest, fingers, hands, elbow, arms, shoulders, neck, face and finally head. As they relaxed each part, they were asked to say to themselves "My..... is relaxed, *"shanthi, shanthi, shanthi"*. They were asked to feel a deep sense of tranquillity, calm and peace in that part till at the end, the whole body should be deeply relaxed. Alternatively (for more modern minded patients), Jacobson's progressive muscular relaxation was taught.

3. Regular Repetition Words (Jappa, Rosary, prayer beads, TM): In this method of *jappa*, repetition of a holy verse, god's name, a *mantra*, meaningful word, idiom or saying was used. For Hindus the *mantra* given to them during initiation or the *Pranava mantra*, 'OM', was selected. For Catholic Christians, the Jesus prayer (*Jesus Christ have mercy on me*) or prayer beads was used. The patient was asked to repeat the chosen word again and again (many times) twice a day. First, this was to be done vocally, then after some weeks of practice, as a whisper, then sub-vocally and then finally, just the thought.

4. Meditation (Dhyanam, Contemplation, Vipassana): First the patient was asked to choose an object for meditation. The person's deity, God, respected saint or elder, a beautiful natural scene or flame was often chosen as the subject of meditation. Alternatively, the above mentioned word or phrase was used. In patients who found

this difficult, they were asked to observe the breath (in-flow and out-flow of breathing at the tip of the nose or the rising or falling of the abdomen). They were taught to sit in a posture that is comfortable. They were then asked to concentrate the mind and keep it continuously on the chosen object. If the mind becomes distracted or goes off onto another subject, they were instructed to slowly become aware of it and gradually, without force, bring it back to the object they had chosen. Very softly, without too much force or effort, they were made to learn to keep the mind on the chosen object. Initially, this was to be practiced for a few minutes, increasing the time progressively.

5. Massage: Traditional methods of *Aurvedic* or *Siddha* oil massage were used and taught to a relative to repeat at home.

Yoga was quite effective for several of the consequences of traumatization, namely states of arousal, anxiety and somatization. Tensed muscles were the cause of much of the somatic pains in torture victims. Relaxation counteracted this. Similarly Hyperventilation was a common problem and the basis for many of the psychosomatic complaints. In torture survivors with musculoskeletal pains and distorted body image due to the systematic infliction of excruciating pain and injury to various parts of the body, relaxation methods, massage and yoga were found to be useful.

Pharmacotherapy

When there is coexisting Depression as there invariably is in more severe post traumatic states requiring drug treatment, the response to anti-depressants is good. In PTSD too, there is positive improvement with anti-depressants, particularly in the intrusive phenomena and nightmares. Low doses of the tricyclic antidepressant,

Imipramine (25mg) works in the majority of cases. The dose can be increased gradually depending on the response on one hand and side-effects on the other. With larger doses (>50mg), side-effects start appearing. Some may not be able to tolerate even the low dose. Alternatives are Amitriptyline, which is particularly useful for associated sleep disorders, or the newer Selective Serotonin Re-uptake Inhibitors (SSRI's) are particularly effective.

Diazepam can be useful for a crisis or overwhelming anxiety. When nightmares prove disturbing and anti-depressants don't help, addition of Diazepam may suppress the nightmares and restore sleep.

Expressive Therapy

Artistic expression of emotions and trauma can be cathartic for individuals and the community as a whole. Art, drama, story telling, writing poetry or novels (testimony), singing, dancing, clay modeling, sculpturing etc. were used where appropriate as emotive methods. The traumatized individual was able to externalize the traumatic experience through a medium and thereby handle and manipulate the working through outside without the associated internal distress. The therapist was also in a better position to understand and help the survivor in this process to finally establish mastery over the traumatic experience. Drama is a powerful social method to create awareness and express collective emotions. A locally produced drama, *Annai idda thee (the fire lit by mother)*, showed the torture process and the manifestations in a survivor. Individually, psychodrama helped the survivor enact distressing incidents and associated emotions. During rehabilitation, role plays were useful in social skills training.

Rituals have a special place in Third world communities. They can be a source of strength, support and meaning. Thus families were encouraged to hold traditional rituals. Leisure activities such as sports, games, folk singing and dancing and religious festivals were promoted as ways of meeting, finding support, expressing emotions and re-integrating back into society. The practice of *Thuukkukkaavadi*, a propitiatory ritual involving hanging from hooks, have increased dramatically after the war and maybe specially useful after detention and torture^{23,24}.

Occupational Therapy

Individual survivors were taught basic social skills and specific crafts to help them re-find employment and re-integrate themselves back into society. Gardening, horticulture, painting, cycle repairing, carpentry, making paperbag etc. for males and weaving, sewing, cooking, etc. for females were some examples that were trained depending the wishes and capacity of the survivor. In addition, occupational training, by structuring time and channeling physical activity into satisfying goals helped the individual regain his or her sense of control and mastery, his or her worthiness and usefulness and thus establish their self-respect and self-esteem. But again, as in all other activities, the victims due to their psychological handicap, needed a sheltered environment where they could progress at their own space without feelings of competition or pressure. In the long-term, occupational skills were empowering and produced self-sufficiency.

Rehabilitation

The rehabilitation of the survivor back into his or her family and community forms an essential if not the most important part of the overall treatment. Our studies have shown

that lack of financial resources, gainful employment, housing difficulties and other social problems form a major component of the survivor's needs. This continuing source of problems hampered recovery, while solving these basic needs was itself therapeutic. Unfortunately in the North and East such opportunities for trauma victims had been completely lacking, though there was some improvement with the, now stalled, peace process.

Interestingly, much of the time and effort in the other centres around the world treating torture survivors is spent on attending to such basic needs as clothes, asylum issues, housing, etc. as they have found that it helps in the overall well-being and recovery of the individual. Thus an important aspect of the treatment was to plan for the final rehabilitation of the individuals and of the family. The plan was individually tailored to the needs of the individual and their family. Financial resources to help an individual re-establish himself or herself in society were an essential step to his or her regaining self-esteem and self-respect. Networking with other Governmental and Non-governmental Organizations (NGO's) was done to find suitable socio-economic help such as loans, housing, occupational training, income generating projects, employment etc. Some of the survivors were given jobs within the psychosocial team. Referrals to other organizations were also used for legal, human rights, justice and other issues. Social workers from the Multidisciplinary team helped the survivor and their families to refer to the appropriate organization, make contact, deal with various administrative problems in society, and to follow them up during the rehabilitation phase.

Community Approaches

In view of the widespread use of torture a

sizeable number in the community have been tortured. As described above, one survey found that 1% of the population in the North had been tortured.¹⁶ However, torture not only affects individual but also, as discussed above, their families, community and larger society. In fact, modern day torture of key individuals and leaders appear to target the larger community as a means of coercive repression through terror. One of the effects on the community has been called collective trauma.²⁵ In these circumstances it may be more meaningful to look at how the community as a whole has responded, how the community coped, and what we can do at the collective level. For example, it may be more beneficial to consider strengthening and rebuilding the family and village structures, as well as finding a common meaning for the effects of terror. Towards this end the following methods (see Box 1) were adapted at the community level:

General Awareness

General education about torture and its effects for the general public as well as at a higher professional level for health staff including doctors, justice and legal officers including judges and lawyers, government and NGO workers and even the military and militant forces (to include human rights, international conventions against torture etc.) was done through the media, pamphlets and popular and special lectures. Considerable educational work in Sri Lanka was done by the Family Rehabilitation Centre, Institute of Human Rights, International Committee of the Red Cross, Centre for Human Rights and Democracy, and the Human Rights Commission. There can be discerned a remarkable improvement in the knowledge about the human rights violation involved in torture and a decrease in the use of torture due to these untiring efforts.

Box 1 Community Approaches

- ❖ Awareness
- ❖ Training of community workers
- ❖ Public mental health promotive activities
- ❖ Encourage indigenous coping strategies
- ❖ Cultural rituals and ceremonies
- ❖ Community interventions
 - o Family
 - o Groups
 - o Expressive methods
 - o Rehabilitation
- ❖ Prevention

Training

Training of grass root community level workers in basic mental health knowledge and skills is the easiest way of reaching a large population. They in turn would increase general awareness and disseminate the knowledge. The majority of psychosocial problems due to torture could be managed by community level workers and others referred to the appropriate level. Primary Health Workers including doctors, medical assistants, nurses, Family Health Workers; school teachers; village resources like the village headman (G.S.), elder, traditional healer, priests, monks and nuns; Governmental, Non Governmental Organization (NGO), volunteer relief and refugee camp workers were trained in basic mental health. A manual based on the WHO/UNHCR booklet, *"Mental Health of Refugees"*,²⁶ was adapted to the Tamil cultural context (*Mental Health in the Tamil Community*) for this purpose with WHO support. A Training of Trainers (TOT's) in community mental health using this manual was completed with UNICEF support. They in turn trained a variety of community level workers mentioned above. In this way the necessary knowledge and skill was spread

to a wide population. A referral system where more severe problems can be referred for more specialized treatment has been established.

Traditional Coping Strategies

Indigenous coping strategies that have helped the local population to survive were encouraged. Culturally mediated protective factors like rituals and ceremonies were recommended for individual survivors and their families. They can be a source of strength, support and meaning.

Teaching of the culturally appropriate relaxation exercises like yoga to large groups in the community can be both preventive and promotive of mental health.

Community Rehabilitation

In addition to individual rehabilitation described above, on a community level attempts were made to rebuild social networks and sense of community by encouraging and facilitating formation of Community Based Organizations (CBO's). Rehabilitation programmes were designed to include education, vocational training, income generating projects, loans, housing etc. that is tailored to the needs of survivors. Close liaison, co-operation and networking with Governmental and NGO's involved in relief, rehabilitation, reconstruction and development work was found to be very productive. They were encouraged to refer survivors as well as discuss mutually important issues while we were able to seek their help for socio-economic rehabilitation projects.

In working with the governmental, non-governmental and international sectors it was stressed that their plans or programmes include due consideration

for the psychological processes that promote individual, family and social healing, recovery and integration. It was recommended that any such programme take into account the wishes of the local population concerned, that they be given an active and deciding role rather than a dependent, 'victims' role, as it promotes their overall sense of participation and thus their eventual psychological recovery. To avoid this, emergent self-help groups and local leadership were encouraged to resume traditional and habitual patterns of behaviour, re-establish social networks and community functioning at the grass root level.²⁷ The local skills and resources were tapped and utilized, so that the community would gain a sense of accomplishment and fulfillment in the reconstruction process. Provision for the non-partisan cultural working through of the shared traumatic experience in the form of periodic reminders of the loss and reiteration of its meaning, and of the heroism of those who suffered torture expressed in media, arts, public works, monuments, special museums & occasions of public mourning as used in other countries²⁸ was very difficult in the totalitarian conditions prevailing here. Perhaps if the peace process is to continue and there is easing in the political repressive situation, it would become increasingly possible. Similarly, community gatherings, meetings and religious ceremonies would be ideal for communal release of feeling; review and coming to terms with the collective trauma; socially define and interpret their experiences, as well as re-establishing social links and planning for the future.

Ethics-Prevention

After working with torture victims and seeing the untold misery it causes, one begins to realize the enormous physical, psychological, social and spiritual cost. There can truly be no neutral position as

far as torture is concerned. As members of the medical profession we have a responsibility towards our community as well as humanity at large. Our calling is to a healing profession, trying to give solace and comfort to those afflicted. It is obvious that one way to prevent widespread torture is to stop the conflict that creates the situation for it to be practiced. Another is to work for the total elimination of torture. Internationally, many members of the medical profession, individually and as a group, have come out strongly against torture. Medical organizations such as the World Medical Association (WMA); Danish, Chilean and British Medical Associations, US Physicians for Human Rights, American Public Health Association and the South African National Medical and Dental Association (NAMDA) have clearly voiced their complete opposition to torture. Internationally there is Article 5 of the Universal Declaration of Human Rights and the UN convention against torture both of which Sri Lanka has signed. Article 11 of the Constitution of Sri Lanka also forbids torture. More recently, many of the organizations involved in work with torture survivors have collaborated to produce the Istanbul Protocol which outlines the current legal standards and gives guidelines on how to investigate and document cases of torture.⁴

We may feel rather weak and helpless as far as decision making or finding a solution is concerned. Health workers in areas of conflict have started emphasizing that as health professionals we can't remain silent, we need to consider the ethics and take principled stand for victims and society.²⁹⁻³¹ The Medical Profession has a powerful and persuasive voice. Particularly, if we can quietly raise one consistent voice against torture. Reports, documentation, papers and presentations at international conferences and publications are ways that the medical profession can bring pressure. Or, this can

be in our day to day dealings and contacts, where we can take principled stands on issues and express our concerns, for example on such issues as torture. More active and open advocacy becomes possible in a more tolerant political climate. Another area of intervention, both for prevention and reconciliation is at the local and national level by influencing policy making, rehabilitation and international aid programmes. It would be possible to influence policy by making use some of the conclusions mentioned in the above analysis under such headings as the origins of the conflict, context, assessment and background. Such a role was possible through membership in local, national and international bodies.

Social Justice still remains an unrealized dream. Those guilty of torture are yet to be punished. At least the official recognition and acknowledgement of the crimes against humanity if not compensation for the victims will go a long way in helping the victims and families obtain some relief for their long suffering. Justice will help in the restoration of mental and social health.

When we see the scale and sheer prevalence of torture in our society and the startling fact that perpetrators are never punished, we have to conclude that it is in some ways accepted in our society. Some may argue that the ends justify the means. However, the dynamics involved in the methods employed will mould the goal reached. Torture has a way of dehumanizing and brutalizing the practitioner as well as the victim. The victim is labelled as the enemy, a non-person in comparison to the 'chosen people' so that the ill treatment, beating and torture become acceptable. This form of rationalization or legitimization, where torture is considered a necessary evil to beat out a confession or obtain vital information pertaining to the security of the state or group, leads to a

culture where torture becomes an accepted norm of the society. The torture process and its legitimization become absorbed into the very structure of society, a part of its consciousness, to be reflected in its dynamics. Further, the torturers themselves become brutalized and transformed by the work they perform as the following case history¹³ shows:

A 23 years old male presented at the psychiatric clinic at the Teaching Hospital Jaffna, with complaints of insomnia, numbness of head and flashbacks of dead friends. He had joined the militant group at the age of 14 and underwent extensive training. During the latter part of 1987, he was trained in Vanni Jungles on several aspects (guerrilla warfare, rifles, explosives, the torturing and interrogation methods taught had been adapted from the Nazi Germany's military manuals and from World War I & II manuals and intelligence works). As he lost his friends one by one in missions he became more withdrawn and preoccupied with thoughts of his dead friends. He also led a very tense life during active duty. He developed hatred towards people whom he was led to believe are traitors and who pass information to his enemies. He got leadership of one of the wing of their intelligence group. During this period (latter part of 1993) he was very anxious to see blood and he got satisfaction by torturing prison victims and seeing them screaming and seeing their blood flowing. He caught 3 people whom he considered are informants and tortured them by slowly cutting them to pieces while they screamed. He then threw these pieces to the nearby road. After this he began to be obsessed by the sight of blood & hearing them screaming in pain. He also had nightmares of his dead comrades being blown to pieces. His insomnia worsened and he began to take diazepam. He became addicted and started taking up to 40 mg at a time. He introduced this to other boys. He also had a severe headache accompanied by numbness of the head. His drug abuse habit was detected by superiors who put him on punishment, where he

was physically beaten and kept in detention. He is obsessed with the urge to torture & see blood. When he was asked to draw a picture he chose a dark red crayon and drew blood drops, a hanging man a knife stained with blood a grave and ghosts.

Torture is carried out while the rest of the world sleeps comfortably, working slowly and deliberately to cause the maximum pain, the torturer studying and getting to know the victim, to tailor his procedure to inflict the maximum psychological damage with the least physical scar. There is a strong element of sadistic pleasure for the torturer. Victims report that torturers often laugh, cracking jokes, drinking and generally enjoying themselves while they carry out their torture. There is also an element of revenge, displaced anger from the elusive enemy channelled on to the victim who symbolically represents the opposition. The frustrations and impotent rage against their enemy is taken out on the helpless victim within the safety of the prison. Torturers as a group have not been studied, but one would expect personality abnormalities, routinization of work, peer pressure, co-opting to the system, brutalisation, sadism, malignant aggression and obedience to authority. A good number may surprisingly, turn out to be 'normal', average law abiding citizens with loving families, as were the Nazi officers responsible for much of the atrocities.³² Part of their 'human' disinhibition may be in their ethnocentric perceptions of the victim as less than human or as dangerous enemies who deserve punishment and must be made to yield information or confession.

As a group they often complain of insomnia, nightmares, irritability and relationship problems including deep suspicion and hostility, violent temper tantrums, somatization like severe unbearable burning pain, hot spells, and throbbing headaches. They often abuse themselves with alcohol

or drugs, suicidal ideas are also frequent. Many of them are trapped into the situation of torture and are unable to escape. Others develop a sadistic personality compelling them to inflict pain and derive pleasure from the suffering of the victim.

We have to guard ourselves against complacency in regard to torture. Many are not even aware that torture is going on right under their noses. Sometime back, a sequence of events brought to light a torture den in the heart of Colombo, where Tamils were tortured to death and then their bodies disposed of in the lakes around Colombo. The elite Special Task Force of the Police was implicated, but were never punished. Sometimes the cries of agony of those being tortured can be especially distressing. This happened during the IPKF occupation of Jaffna where there were camps every few hundred yards in the middle of residential areas. The cries of detainees being tortured emanating from the army camps in the middle of the night kept awake those living close by, causing severe psychological disturbances in them.

Others blatantly deny the practice of torture. Often there is official denial by the authorities, and many ordinary citizens will not like to think of the unsavoury part of their country. When discussing torture some will switch to other forms of 'torture', talking metaphorically, they would refer to torture within the family or ragging in the Universities. However, it is important to remember that we are here talking about systemized application of pain of a severe degree to break an individual in an organized way. It is qualitatively in a completely different dimension.

Although many will accept the fact of torture, they would consider it as inevitable, a necessary evil to combat terrorism, threat

to or from the State. They argue that some innocent civilians may unfortunately get caught but usually those tortured are guilty of being informers or traitors. Usually it appears that torture develops from a background of police brutality which was socially accepted or sanctioned to some degree. Outbreak of conflict and increasing militarization in a desperate situation, easily allows torture and other gross human right violations to be practiced. We have to work hard to change this social acceptance. We still have a long way to go in creating awareness of the problem of torture in society and to break the ready acceptance of this inevitability.

Reference

1. Doney, A. (1998) Psychological After Effects of Torture. In Somasundaram, D.J. (Ed.), *Scarred Mind*. New Delhi: Sage Publications, 1998: 256-287.
2. Amnesty International. Sri Lanka Disappearances. AI Index: ASA 37/08/86, London: Author, 1986.
3. University Teachers for Human Rights- Jaffna. *Disappearances & Accountability*. Colombo: Author, 1999.
4. United Nations. Istanbul Protocol. Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. New York: United Nations, 2001.
5. Fernando, R. *Medico-Legal Aspects of Torture*. Colombo: Family Rehabilitation Centre, 2000.
6. Gunasekara, L. (2001) The Dharmachakara as a form of torture. *Sunday Observer*, 2001 July 01, 2001, pp. 6.
7. Sivayogan, S. (1994) Common Health Problems of Victims of Systematic Violence: Sri Lankan Experience. *Torture* 1994; 4(2), 57-58.
8. Association for Health and Counselling. *Study of Ex-Detainees of Mannar District*. Unpublished data. Author: Jaffna., 1989.
9. Mayuresan, A.P. & Sithamparanathan, T. *A Study of the Psycho-social Aspects of Torture Survivors in Jaffna Peninsula*. III MBBS Research

- Report. Jaffna: Department of Community Medicine, University of Jaffna, 2000.
10. Peel, M., Mahtani, A., Hinshelwood, G. & Forrest, D. The sexual abuse of men in detention in Sri Lanka. *Lancet* 2000; 355, 2069-2070.
11. Ommerman, M.V., de Jong, T.V..M, Sharma, B. Komproue, I. Thapa, S.B. & Cardena, E. Psychiatric Disorders among Tortured Bhutanese Refugees in Nepal. *Archives of General Psychiatry* 2001; 58, 475-482.
12. Ortman, J., Genefke, I.K., Jakobson, L. & Lunde, I. Rehabilitation of Torture Victims: An Interdisciplinary Treatment Model. *American Journal of Social Psychiatry* 1987; VII:4.
13. Somasundaram, D. J. *Scarred Mind*. New Delhi: Sage Publications, 1998.
14. Trautman, E.C. Fear and Panic in Nazi Concentration Camps: A Biosocial Evaluation of the Chronic Anxiety Syndrome. *International Journal of Social Psychiatry* 1964; 10:1234-41.
15. Somasundaram, D. J. War Trauma and Psychosocial Problems: Patient Attendees in Jaffna, *International Medical Journal* 2001; 8 (3), 193-197.
16. Somasundaram, D. J. & Sivayokan, S. War Trauma in a Civilian Population. *British Journal of Psychiatry* 1994; 165, 524-527.
17. Somasundaram, D.J. Treatment of Massive Trauma. *Advances in Psychiatric Treatment* 1997; 3, 321-331.
18. Frankl, V. E. *Man's search for meaning: An introduction to logotherapy*. Boston: Beacon Press, 1959.
19. Schauer, M. Neuner, F. Schauer, E. & Elbert, T. *Training Manual for Narrative Exposure Therapy (NET)*. Germany: Vivo, 2004.
20. Jacobson, E. *Progressive Relaxation*. Chicago: Chicago University Press, 1938.
21. Somasundaram, D. J. Using traditional relaxation techniques in minor mental health disorders, *International Medical Journal* 2002; 9 (3), 191-198.
22. Benson, H. *The Relaxation Response*. New York: Avon Books, 1975.
23. Derges, J. (2007). Eloquent bodies: Communicating violence in northern Sri Lanka. PhD thesis, University College London, London.
24. Derges, J. (2009). Eloquent bodies: conflict and ritual in northern Sri Lanka. *Anthropology & Medicine*, 16(1), 27-36. doi: 10.1080/13648470802425930
25. Somasundaram, D. Collective Trauma, *International Journal of Mental Health, Psychosocial work and Counselling in Areas of armed Conflict* 2003; 1 (1), 4-13.
26. World Health Organization *Mental Health of refugees*. (eds. J. de Jong & L. Clarke) Geneva: WHO, 1996.
27. Raphael, B. When Disaster Strikes, Australia: Hutchinson, 1986.
28. Kinston, W. & Rosser, R. Disaster: Effects on Mental and physical state, *Journal of Psychosomatic Research* 1974; 18:437-456.
29. Chandrasiri, N. (1999) *Textbook of Clinical Forensic Medicine and Forensic Pathology*. Galle: Author, 1999.
30. Armenian H. K. Perceptions from Epidemiological Research in an Endemic War. *Social Science & Medicine* 1989; 28, 643-647.
31. Zwi, A. & Ugalde, A. Towards an Epidemiology of Political Violence in the Third World. *Social Science & Medicine* 1989, 14, 633-646.
32. Arendt, H. *Eichmann in Jerusalem: a report on the Banality of Evil*. New York: Viking Press, 1963.

Only a government that
IS NOT CORRUPT
can end

CORRUPTION!

[illegible]

ANALYSIS: BY DR. LAKSIRI FERNANDO

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POLITICS OF TORTURE AND POLITICS OF TERROR IN SRI LANKA

BY DR LAKSIRI FERNANDO

Politics of torture and politics of terror have been the mutually reinforcing two main scourges that were affecting the people, the polity and the society in Sri Lanka for the last thirty years or so and even before; when one has been acting as the cause the other has been appearing as the effect and vice versa.

On a global scale in recent times, particularly after 9/11, there have been many studies conducted on the use of torture and its 'legitimacy' in what has been popularly termed as the 'war on terror.'¹ Framed

mainly on the lines of traditional concerns of torture in the process of criminal justice, as excellently initiated by Cesare Beccaria² in the 18th century, only few of these studies nevertheless attempts to investigate the links between the two. However, on the issues of torture they are undoubtedly substantive studies and would guide any investigation even into the links between the two.

There are many roots to politics of terror or terrorism as researched by other academics throughout the world.³ Ideology,

¹ Some of the studies are by Benvenisti, Meron and Babara Ehrenreich, *Abu Ghraib, the Politics of Torture*, Atlantic Books, 2004; Lightcap, Tracy, *The Politics of Torture*, MacMillan, 2011; and Pary, John T, *Understanding Torture, Law, Violence and Political Identity*, University of Michigan, 2010.

² *Of Crimes and Punishments*, 1764.

³ Some important studies are Bajpai, Kanti, *Roots of Terrorism*, Penguin, 2002; Krueger, Alan, *What Makes a Terrorist: economics and the Roots of Terrorism*, Princeton University Press, 2007; and Richardson, Louise, *The Roots of Terrorism*, Routledge, 2006.

inscrutable social frustration, perceived national liberation or any of the likes can be identified as broad causes. At the same time, many biographical data shows that the victims of political torture most often emerge as the perpetrators of political terror. It is the conviction or the premise of the present author, however, that when political terror appears in magnified form there is no other way for the society rather than defeating it nevertheless through legitimate means. The legitimate means does not approve torture or the violation of human rights or international humanitarian law. Freedom from torture is a fundamental human right.

The studies on politics of terror and politics of torture so far have remained mutually exclusive two distinct terrains. They have hardly come together. The present article however tries to bring them together for the benefit of understanding both phenomena in an interlinked fashion for the sake of the promotion of human rights, democracy and good governance. There are of course close theoretical links between the two. Any proper definition of either terror or torture cannot exclude the common element of violence or torment from our understanding of the two. Both are oppressive. If violence or torment is abhorrent in one it should be abhorrent in the other. In addition, there are cyclical relations between the two like cause and effect in a spiral fashion and when they are unleashed there is no easy end unless and until the cycle is broken.

"The studies on politics of terror and politics of torture so far have remained mutually exclusive two distinct terrains. They have hardly come together."

This article argues that understanding of the link between the politics of torture and politics of terror is primary in breaking the link followed by necessary political action and/or public policies in getting rid of both from any polity or society afflicted by them. The basis for this argument is the case of Sri Lanka. On the part of the author it is not the theory that led him to the argument between the link and the way-out from the menace, but the life experience. Theory came later. Therefore, the main argument and the exploration of the link between the two is presented in a narrative form in this article as largely experienced or observed by the author associated with other evidence and arguments.

Definitions

For this article 'politics of terror' is terrorism. It is primarily understood as a political phenomenon. Among many definitions, let me quote Charles Ruby on the subject.⁴

"Terrorism is defined by Title 22 of the U.S. Code as politically motivated violence perpetrated in a clandestine manner against noncombatants. Experts on terrorism also include another aspect in the definition: the act is committed in order to create a fearful state of mind in an audience different from the victims."

On torture, Edward Peters quoted the 3rd century jurist Ulpian for a definition and that is sufficient for this study as a beginning.⁵

"By torture we are to understand the torment and suffering of the body in order to elicit the truth. Neither interrogation by itself,

4 "The Definitions of Terrorism," *Analysis of Social Issues and Public Policy*, 2002. p. 9.

5 *Torture*, Basil Blackwell, 1985. P. 1.

nor lightly inspired fear correctly pertains to this edict. Since, therefore, torture is to be understood as force and torment, these are the things that determines its meaning.”

For the purpose of this investigation, ‘politics of terror’ pertains primarily to the violent clandestine behaviour to instil immense fear both among the combatants and noncombatants to achieve political goals. On the other hand, ‘politics of torture’ particularly encompasses the violent state behaviour to instil great fear among the clandestine combatants, dissidents as well as the general public to achieve different political goals. What can be added in the case of ‘politics of torture’ is what is emphasised by the UN Convention against Torture (1975), as both physical and mental.

Early Observations

I recollect the incident of a young man in our neighbourhood of Koralewella who was brutally assaulted by the police at Moratuwa somewhere in early 1953. He was allegedly involved in a petty theft. He was sitting on a chair in front of their tiny wooden house for the people to see. There was a placard near him stating - ‘*thireschina police pahara*’ - to mean, ‘brutal police assault.’

His head was bandaged and face was deformed in purple colour with swollen lips. One hand was hanging from a shoulder-strap and he was smoking a cigarette from the other. He was without a shirt wearing a sarong and there were obvious bruises all over his chest and body. There were crowds to see the victim and two left-leaders in the area addressed the gathering.

It was after few months in August a popular general strike called *Hartal* or uprising erupted in the country against the price increase of the rice ration led by the

trade unions and left parties.⁶ During the events, Koralewella area stood prominent nicknamed as little-Korea. Among several incidents, a train carrying people for work in Colombo was stopped and the passengers were asked to go back home. The railway tracks were damaged. It was rumoured that the youth who was assaulted by the police that I mentioned took the lead in the incidents.

In this early period of post-independence social conflicts in the country there were no efforts to channel victim-grievances of police brutality or others into cohesive movements of democratic resistance. The traditional left did raise the issues in Parliament where they were well represented but there were no human rights related civil society organizations or NGOs to agitate; neither there were possibilities of filing fundamental rights cases like today.

“There was no question that the JVP insurrectionists also were ruthless during their insurrection; but their capacity was limited and the wherewithal of the police and the army far exceeded that of the insurrectionists.”

The grievances appear to accumulate. Another sphere of this accumulation was related to the emerging ethnic conflict. When the Federal Party leaders protested against the Sinhala Only Act in front of the Parliament in June 1956 and when they were assaulted by thugs, even the Prime Minister ridiculed them without consideration even

⁶ Robert Kearney, *Politics and Trade Unions in Ceylon*, University of California, 1971. P. 149.

for their blood stained wounds. The assault appeared state sanctioned. The wounds were more psychological than physical.

More horrendous incidents took place during the communal riots in 1958 most of which are objectively documented by Tarzie Vittachi.⁷ There were atrocities committed by the Tamils against the Sinhalese, but they dwindled into insignificance when compared to what happened to the Tamil community. Independent observers were of the view that the incidents were well planned by the ruling party related groups with state sanction. This is something I call 'political torture' in contrast to individual torture in the process of criminal investigation that we normally talk about. The purpose has been to silence a community in their protest against inequality. The suffering, the pain and agony have been deep seated with tremendous future consequences.

Deteriorating Conditions

The judiciary in Sri Lanka traditionally served as a direct check on the police and administrative actions of the executive in general. But the situation started deteriorating after the change of the constitution in 1972 which gave way for political interferences in the judiciary. Independence of the judiciary was considered less important in a 'third world democracy' and in a socialist pathway. Other compounding factors were the population growth, increasing unemployment, worsening economic conditions, escalating crime rate and unrest among the youth. The police was the main instrument of social control.

There were several radical or new left organizations emerging in the late 1960s, the Janatha Vimukthi Peramuna (JVP) or the People's Liberation Front being the most prominent. The JVP worked primarily in the rural areas where police-civil relations had been particularly adversarial. While the police were anathema for the youth, the youth were anathema for the police. The antagonism was mutual. It was after a series of confrontations between the police and the JVP activists, since late 1970 that the April 1971 insurrection erupted. By the time the leader of the movement, Rohana Wijeweera, was under arrest in a Jaffna prison. One of the objectives of the insurrection was to rescue the leader from prison. The insurrection was waged more in desperation than of a careful plan to capture state power.

Wijeweera have had a traumatised childhood his father being a victim of election violence in 1947 with police involvement. The father was disabled. Wijeweera revealed that he was kept in a dark room without clothes for days when he was in custody in 1971 and only a Tamil inmate gave him a sarong to wear after noticing him. It was not by accident that the JVP attacked over hundred police stations and captured around 40 for few days or weeks as the main outcome of the insurrection. Some were abandoned. The police-JVP or youth antagonism was the main catalyst for the insurrection. Before the main event, over hundred activists were in police custody who had to go under enduring ordeals of torture to elicit information about what was termed as the 'Naxalite' movement.

I was witnessed to four bodies hanging on a Tamarind tree in front of the police station at Hasalaka when I was travelling with a friend to inquire about another friend in Mahiyangana. Apparently the tortured bodies were demonstrated to terrorise the

⁷ *Emergency 1958*, Andre Deutsch, 1958.

people in the area to prevent them from the insurrectionary activities. Those were the early days of the insurrection. Two of my friends, Lakshman Weerakoon and Gunadasa, disappeared who were teachers at the Haguranketha Maha Vidyalaya. The story came to be revealed later through two sources.

A female teacher revealed that the two were taken away from the bus that they were travelling in at Rikillagaskada junction on their way to collect the salary from the Kandy education office in late April. An errand-boy who was working at that time at the police station revealed later that the two were brought to the police station and Gunadasa was severely assaulted and as a result he died. To prevent an eye witness to the event, Lakshman was taken behind the police station and was shot, sending both bodies on the river downstream. It was a known fact that many slain bodies were floating in rivers during the insurrection.

There was no question that the JVP insurrectionists also were ruthless during their insurrection; but their capacity was limited and the wherewithal of the police and the army far exceeded that of the insurrectionists. The number killed estimated to be around 10,000 and a similar number was in detention and later released after 'rehabilitation.' The leaders were tried under special legislation and incarcerated for many years. Although the army involvement in quelling the insurrection was limited, their atrocities were unlimited. The rape and killing of Kataragama beauty queen Premawathi Manamperi was the most prominent.⁸

Roots of Insurgency

The lesson apparently learned by the Northern rebels from the Southern insurrection was about arms. To win the war superior arms and tactics were considered necessary. Not only in arms but also in 'ruthlessness' they were determined to compete the state. 'Terrorism' was devised first as a tactic, but then it evolved into a way of life. The advantage for this venture in the North was the support base in Tamil Nadu and among the Diaspora.

I was a member of a fact finding mission to Jaffna in May 1981 just one month before the infamous burning of the historical Jaffna library. The mission was organized by the Movement for Inter Racial Justice and Equality (MIRJE) and the reason for the mission was the increasing reports of police atrocities in the district.⁹ By this time there were several rebel groups operating, one under the leadership of Prabhakaran who was known as Thambi. We visited nearly fifty households in the town area who were affected by the atrocities. A similar story emerged in many places, but I recollect very clearly one.

The father was a middle aged man with two young sons and a daughter who could speak Sinhalese. He had a cigar business and told me that he used to travel to areas like my home town of Moratuwa to sell his cigars during the good old days. His house was ransacked on the pretence of search and the two sons were taken away. The second was released later with injuries inflicted during interrogation and was lying in bed by the time we visited. His wounds were obvious.

⁸ For insurgency see, Gamini Samaranayake, *Political Violence in Sri Lanka, 1971-1987*, Gyan Books, 2008.

⁹ See "What Happened in Jaffna: The Days of Terror," MIRJE Report 2, May 1981.

The elder one's fate was not known. He was still kept in custody. The old man told us that his elder son's crime was to attend a Tutor in the area, by pointing out the direction, where 'Thambi' also was studying few years back without any other connection. He vouched that his sons were not politically involved.¹⁰

During our visit, a particular name of a police ASP (Assistant Superintendent of Police) came again and again as the main perpetrator or organizer of atrocities. Although the name skipped my mind later, it came back when I came across the person in mid 1990s in Colombo. He was a DIG then. Apparently a sane person on the surface, he is supposed to be a ruthless officer against Tamil youth who was in charge of many operations in the North and the East. He joined an extremist Sinhala nationalist party in retirement and was an advisor on counter insurgency measures to the government. The connection between counter insurgency, including torture, and extreme nationalism was obvious.

By this time I had a vague idea about how the movement originated. The year 1972 was perhaps a landmark. The standardisation to university admissions had disadvantaged the aspiring middle classes in Jaffna. The 1972 Constitution closed the possibility of federalism or even devolution by defining the polity as a strict unitary system. Thereafter in 1974, the accidental or intended death of seven people during the World Tamil Research Congress in Jaffna was an occasion for the youth to rebel and thereafter organise clandestinely. It was under the pressure of the radical youth that the Federal Party opted for the famous Vaddukodai Resolution openly

demanding a separate state and Tamil Eelam in 1976.¹¹

It was mainly the Liberation Tigers for Tamil Eelam (LTTE) that opted to win the Eelam demand consistently through what I would call terrorism. It fits with the definition of terrorism that we presented at the beginning of this essay. It may be a reaction to the state terror and/or torture that many young people had experienced in custody. But it was a disproportionate and an extreme reaction. It was not a solution but a new problem or rather menace that was created.

It was the same pattern of reaction, perhaps at a lesser degree, that the country experienced in the South during 1987-89 unleashed by the JVP. The completely unjustified banning of the organization in 1983 and the arrest and torture in custody of many activists thereafter created the conditions for the second insurrection of the JVP. Like the LTTE, the JVP terror was not only against the state or the police or the armed forces but also against the people who dissented from them or simply ignored their orders. I was not privy to direct experiences during the period as I was working abroad. But during visits I came across some.

A known female lawyer's old father at Watapuluwa, Kandy, was brutally killed as he failed to close the shop he was running almost by habit and not merely for business. The lawyer's husband was my former colleague at the University of Peradeniya. A trade union activist among the university employees named Gunapala whom I knew from my student days was killed for no reason other than his dissent from JVP

¹⁰ It was during this visit that I first came to know Ketheesh Loganathan, a committed human rights activist from Jaffna, who was later killed by the LTTE in Colombo in 2006.

¹¹ K. T. Rajasingham, "Sri Lanka: The Untold Story," *Asia Times*, 26 January 2006.

politics and the family was not allowed to perform a proper burial for him.

Glimpses of Terror

The initial terrorist attacks particularly between 1975 and 1983 were aimed at what they called the traitors of the Tamil struggle. Jaffna Mayor, Alfred Duraipappah, was the first target in July 1975 followed by many of the Tamil police officers involved in insurgency investigations. Most gruesome was the way the Inspector Bastianpillai and two others were killed in Murukkan in April 1978. Bastianpillai was supposed to be one of the brutal Tamil police officers involved in counter insurgency measures.

Narayan Swamy gives a vivid picture of how Prabhakaran planned and executed the killing of 13 soldiers in July 1983 through an ambush which created what came to be known as Black July in which over 2,000 Tamil civilians were killed in reprisal by the Sinhalese goons.¹² The LTTE attack was aimed at a backlash. That was the beginning of the Eelam War.

The tactics of war thereafter involved attacks and killings of Sinhalese villagers in areas where the LTTE claimed a homeland, beginning with Dollar and Kent Farm attacks in November 1984. Soon the civilian attacks were extended to the other areas and a major turning point was the massacre of unarmed civilians in Anuradhapura in May 1985. Thirty such attacks were reported for 1985 and 1986 with a death toll of nearly 600. The calculations went as if to take revenge for the Black July. Another intention was to terrorise the whole nation to impose its will over the

country. All other radical groups were by this time had been effectively silenced or outnumbered.

Since 1986 the LTTE also was demonstrating its capacity to execute terror attacks in the heart of Colombo. In May that year Air Lanka Flight 512 and the Central Telegraph Office in Colombo were bombed. The next year April was the Central Bus Station. It was only for a short period of time that the Indian Peace Keeping Force (IPKF) could bring respite for the war or terrorism. Their intervention also proved to be flawed with equally damaging violations against the civilians. It is also argued that if not for that intervention that the Sri Lankan forces could have contained the LTTE in 1987 during the Vadamarachchi operations.

Whatever the truth of that claim, the exit of the Indian army also marked the escalation of terror in the country and the control of large land areas including many parts of Jaffna under the LTTE. The new wave started with the massacre of 600 unarmed police officers and the ethnic cleansing of Muslim civilians from the North in 1990. The LTTE also demonstrated its capacity of terror by assassinating the Indian Prime Minister Rajiv Gandhi in May 1991 and the Sri Lankan President, Ranasingha Premadasa, in May 1993. There was a long list of assassinations of both Sinhalese and Tamil politicians, and also intellectuals on the Tamil side. Apart from terrorism now there was conventional war. There was an army with terrorist tactics of suicide bombers and recruitment of child soldiers.

To supplement conventional war, terrorist attacks were unleashed in Colombo. Kolonnawa Oil Storage was attacked in October 1995 and the Central Bank in January

¹² *Inside an Elusive Mind: Prabhakaran*, Vijitha Yapa, 2006.

1996 followed by a train bombing at Dehiwala in July. In October 1997 the World Trade Centre in Colombo was bombed and the Temple of the Tooth in Kandy was attacked in January 1998. These are only highlights. The conventional war continued in capturing the Mullativu camp and the area in July 1996, Killinochchi in September 1998 and the most important Elephant Pass in April 2000. By this time the Vanni consolidation of the LTTE was largely completed.

There are extensive reports of how the LTTE controlled the civilians in the controlled areas and in the so-called de facto state and even before. There are reports of extreme terror and torture that they used.¹³ The civilians were extensively taxed, forced to work for their military and the dissent was suppressed. There were reports of torture camps maintained for those who went against the LTTE. Apart from their strength of territorial consolidation, 9/11 and changed international circumstances thereafter were the reasons for them to agree for the Ceasefire Agreement (CFA) and the peace process in February 2002. Otherwise, the attacks such as the Bandaranaike International Airport in July 2011 would have continued with major economic repercussions.

It was only during the peace process between 2002 and 2005 that the atrocities relatively abated on both sides. But both sides were arming themselves in ferocious manner with covert operations of killings and inflicting disappearances. This article does not trace the history or the events of the final war between July 2006 and May 2009. But this period is important as the culmination of politics of terror and politics of torture in the country.

The reasons for not covering this period are space and the need for careful study of facts and information available or not available at present. But it should be stated that the atrocities committed by the government forces and the LTTE at the last stages of war might prove unimaginable if independent investigations are conducted.

However, one incident could be related as an example. A credible footage is available of the brutal killing of the Eastern commander of the LTTE, Ramesh, after capture or surrender. That is against the international humanitarian law. The first footage reveals the questioning of him by soldiers whose identities cannot be difficult to verify. At the end of an altercation, one who was questioning asks others to get a 'Polla' (pole) to teach him a lesson. The second footage shows the body of Ramesh brutally killed. There are other videos credible or partly credible. The revelation of the body of Prabhakaran in battle is understandable; the alleged bullet ridden body of his twelve year son is not.

Repercussions on Polity

Nearly three decades of war has undoubtedly traumatised the psychology of the people in the country on all sides. It is possible that the 'rulers' are also affected the same way or more, considering the bizarre way they behave. This is the result of politics of torture and politics of terror.

When the 'war on terror' was launched and when the armed forces were winning, the overwhelming majority of the people in the South rallied around the government completely weary of LTTE atrocities particularly in their areas as outlined before. The effect on the people in the North was

13 UTHR (Jaffna) Report 9, Chapter 3: "The Tortured Community."

different with uncertainty, insecurity and fear. This is what partly led for the thousands of people to become a 'human shield' for the LTTE apart from the force that the LTTE enlisted. At the end of the war there were two psychological terrains that were created by the circumstances in the South and the North. When the armed forces rescued the civilians from the LTTE control, although they were relieved, the fear, uncertainty and insecurity persisted. This is something that any reconciliation process should address.

The South by and large was different with triumphalism and complete admiration of the government and armed forces. The rational thinking was the casualty. 'If you are not a friend of the government, you are an enemy.' People adored the President as the 'King.' There was nostalgia for the ancient past and revulsion against the West and what is foreign. The people who dissented were easily branded as 'traitors.' Political relations were taking a pattern of a 'ruler-subject' relationship than of citizens in a democratic society with rights.

By this time many sections of the opposition had joined the government and the government was a strong government, although in terms of 'good governance' it was terribly failing. The elections in 2010 re-established the situation with a second term for the President and more than two thirds majority for the government. It is on the basis of this strength that the constitution was changed in September 2010 through the 18th Amendment further strengthening the powers of the President over the bureaucracy and the judiciary and eliminating the limited terms for the office for the presidency. It was a major landmark of deteriorating

democracy.¹⁴ It was also a major blow to the 'rule of law' in the country by encroaching into the impartiality of the judiciary and the independence of the public service.

The situation for the opposition, for dissent and for independent thinking was quite oppressive since the war time onwards. The media was a major casualty. In a series of killings beginning with Taraki Sivaram in April 2005, a prominent critic of the government and senior journalist Lasantha Wickrematunga was killed broad day light in January 2009. The killers are not yet apprehended although information reveals the killing to be a military or paramilitary operation. Many of the others were white van abductions leading to disappearances including Prageeth Eknaligoda in January 2010. It is unknown how the abducted persons were treated in secret. The numbers abducted and disappeared are also a controversy. It is irrespective of this oppression still the media is vibrant and that is a good sign for the future.

Although war time restrictions are over, what is oppressive in the South is several times more in the North. Although the main security zones are closed, the military presence in the North is heavy. It is estimated that there is one soldier for every six civilians including the elderly and children.¹⁵ The military presence in the North is not a passive phenomenon. They are involved in construction work, encroaching into people's land and businesses and controls not only political events but also social gatherings.

14 See Rebecca Buckwalter-Poza, "Repercussions of the 18th Amendment and Decline of Democracy, *Sri Lanka Guardian*, 17 September 2010.

15 Col. R. Hariharan, "Sri Lanka: Why Military Matters in the North? *Sri Lanka Guardian*, 28 May 2012.

It is argued that the reduction of military presence in the North will create conditions similar to the 1980s, but on the contrary, it is the military presence that would create such a situation. The heavy military presence gives an atmosphere of politics of torture and terror.

Conclusion

The Sri Lankan polity is behaving as if suffering from a post-traumatic disorder. This is the result of long term politics of torture to suppress dissent and politics of terror on the same lines or as reaction to state suppression. This study investigated in a narrative form the links between the two, one reinforcing the other. As a product of this vicious cycle, during the last thirty years or so, the political institutions seem to be extremely fragile with scant respect for rule of law, democratic practises, human rights and good governance.

The popular mandate given to the government obviously in good faith after terminating terrorism is extremely abused through misconceptions of inviolability of power. The power has proved to be corrupt both politically and economically. To maintain and extend that power including financial bounties, repressive measures of political intimidation, framed trials, abductions, involuntary disappearances and torture in custody are still being used. Within the government authority, there is an inner circle of 'family and close associates' ruling. Violence and intimidation is used not only against the opposition parties but against the constituents of the same ruling coalition as revealed during the local government elections in October 2011.

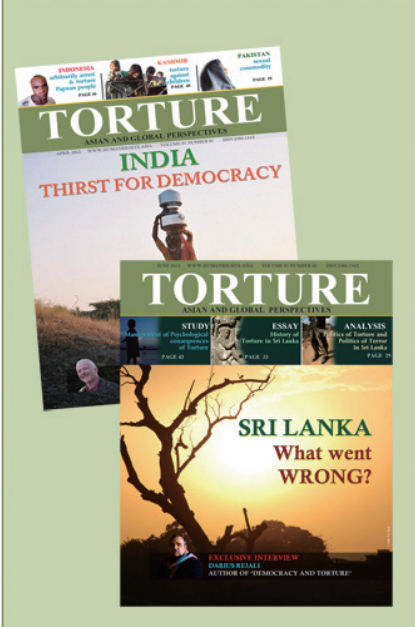
There is a need to break the cycle of torture and terror, and terror and torture, if the

democratic system in the country to be resurrected and good governance and rule of law are to be reinstated. Although the next round of presidential and parliamentary elections is few years away from now, democratic forces may need to be strengthened within and outside Parliament both in the South and in the North. The first principle is to speak up and speak up fearlessly.¹⁶ The journalists and academics could play a major role in this respect and the Media of all types is pivotal. Second is to reach the ordinary people and the grassroots through the languages of Sinhalese and Tamil that they are familiar with.

"There is a need to break the cycle of torture and terror, and terror and torture, if the democratic system in the country to be resurrected and good governance and rule of law are to be reinstated."

All oppositional parties and all democratic sections of the ruling coalition itself should be influenced to stand for democracy, reconciliation, good governance, rule of law and human rights. Civil society organizations, trade unions, NGOs and even religious organizations could play a major role. On the issues of torture and rule of law, all possibilities available within the judicial system, whatever the existing weaknesses, should be utilized. The issues at stake are obviously larger than party politics or individual party objectives. The choices are becoming narrower, and narrower, between Democracy and Repression.

16 Namini Wijedasa, "Stopping the Rot," *Colombo Telegraph*, 23 May 2012.



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Rizana Nafeek, a Sri Lankan underage housemaid arrived in Saudi Arabia in 2005. She was charged with murder of an infant who was in her care and sentenced to death by beheading in June 2007 following a confession obtained under duress. The confession was later retracted via legal assistance and appeal was lodged enabled by human rights groups. However, after a highly questionable and arbitrary process, the Supreme Court has confirmed the death sentence in late October 2010.

SAVE

Rizana Nafeek



ESSAY: BY U.C.P. PERERA

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THE HISTORY OF TORTURE IN ANCIENT SRI LANKA

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Abstract

Torture has been practiced throughout the human civilization in various forms since time immemorial and Sri Lanka is no exception. Barbaric forms of torture were adopted in the country with full awareness and approval of the monarchy. Capital punishment was in practice since the Anuradhapura period (3rd century BC-10th century AD) and the 'Mahavamsa' or 'Great Chronicle' is full of descriptive events related to numerous massacres and homicides allegedly committed by the monarchical rulers to retain power. Slavery was continued in the society with Buddhist monasteries being the main beneficiary since medieval period. The western colonial powers who occupied Sri Lanka in early 16th century used torturous practices to achieve their own political goals. The conceptual denial of torture in modern Sri Lankan history originated in the early eighteenth century when British became signatories to the Kandyan Convention 1815. However they violated its conditions against torture by brutally massacring civilians in 1818 and 1848 rebellions. In 1948 Sri Lanka received its independence from western colonialism with a legacy of torture as a significant component of many other residual appendages from the past.

The human rights portfolio of modern Sri Lanka is deeply entrenched with repeated events of torture, extra judicial killings and enforced disappearances that have occurred during the last four decades. Many international sessions including United Nations (UN) meetings and UN special

rapporteurs highlighted the gravity of the issues concerned despite denials of allegations by the state. Sri Lankan governments never accepted officially until recent times that torture is being committed by state machinery and such events were brought to the surface through the continuous efforts

of non-governmental organizations and international pressure groups.^A However two major government initiatives observed in the human rights field in Sri Lanka during the last two decades denote that torture is an unresolved ongoing major human rights violation. The first initiative was the adoption of the UN Convention against Torture into the domestic legal system in 1994.¹ The other one is the accommodation of a separate chapter for Torture in the most recent National Human Rights Action Plan² put forward by the Sri Lankan government ahead of the critical UN Human Rights council meeting held in scheduled for March 2012. One can easily arrive at the following conclusions after analyzing the content and relevance of these two efforts.

Torture is a continuously growing issue in modern Sri Lanka. It does not have an effective institutional structure to fight against torture despite adopting international principles on human rights into local legislation

The adoption of torturous practices against civilians by the state and its allies in post independent Sri Lanka have been increased in an exponential rate over the last three decades. The state has taken the stance of prevention of terrorism in some cases to negate the argument. The Prevention of Terrorism Act No. 48 of 1979³ is such a draconian law which provides sweeping powers to the security forces to arrest and torture civilians in long term detention without a trial, bypassing and hence making the formal court procedures dysfunctional. The law enacted originally as temporary for 3 years was made permanent in 1982.

Torture is a continuously growing issue in modern Sri Lanka. It does not have an effective institutional structure to fight against torture despite adopting international principles on human rights into local legislation.

The recollection of a convict of the first youth uprising in 20th century Sri Lanka narrates the hidden aspects of the initial part of this gruesome story. "Frequently Lionel witnessed people being pulled out of the prison and taken to the police stations or CID for questioning. When they were brought back to the prison Lionel could see from their injuries that they had been tortured. News filtered through that around 10,000 people had been killed by the armed forces. The government had appointed military governors for each district."⁴ According to the official Criminal Justice Commission (specifically appointed by then government to hear the charges against youth rebels in 1971) statistics the ratio between the deaths caused by the JVP (the political party behind 1971 uprising) and the youth and civilians killed by the state forces in retaliation was approximately 1: 100.^B In the midst of the endemicity of torture currently experienced throughout Sri Lanka, it is essential to review the historical past of these activities and how it influenced the present regimes. It provides an essential preface for the understating of the mindset of rulers and the longevity of torturous practices in Sri Lanka.

A. Annual US Dept. of State reports on Sri Lanka, Amnesty International, Human Rights Watch, International Commission of Jurists and many other organizations have continuously referred to torture in Sri Lanka during the last decade. In 2011, the Asian Human Rights Commission (AHRC) has published 323 case narratives of police torture out of approximately 1500 torture cases reported to them from Sri Lanka between 1998 and 2011.

B. Cooke MC. The Lionel Bopage Story. 2011. P160



Graphical illustrations appeared in the original book of Knox published in 1681 depicting appalling nature of capital punishments

There is little doubt according to the historical narrations that torture existed in Sri Lanka for centuries prior to western colonization. Torturous practices were mainly in use as punishments executed by the monarchy. There was a wide range of punishments, which the Dhampiyā-atuvā-gatapada of Kassapa V (914-923), broadly classified as corporal (kāya-danda), verbal (vachi-danda), financial (dhana-danda), and mental (mano-danda). Death was a recognized form of

punishment. A sentence of death could only be passed by, or with the acquiescence of, the king. The execution was a recognized part of the system even in the days of King Pandukabhaya (377-307 BC). Whipping, beating, branding, mutilation and cutting off hair were other recognized forms of punishments.⁵ In ancient Sri Lanka, 32 types of torture were described. Though inflicted by the King's men,^c and "lawful", they were inhuman, cruel and degrading.⁶

C. These state torturers were referred to as "wadhakayas"

The Mahāvamsa or Great Chronicle which is believed to be the main source of written history of ancient Sri Lanka provide ample evidence of application of torturous practices. The chapter X of Mahāvamsa which describes the consecration of Pandukābaya in detail illustrates how the killing spree continued at various stages before he claimed the throne after defeating his eight uncles. "The prince's men killed all the soldiers of the enemy's army and the eight uncles with them, and they raised a pyramid of skulls."^{7,8} "Torture was originally recognised as a stage in the administration of the law, and in the original organisation of the capital in the fourth century B.C., a place for its infliction was established adjoining the place of execution and the cemetery as stated in Chapter X, Mahāvamsa.^D It was abolished in the third century by king Wairatisso⁹; but the frightful punishments of impaling and crushing by elephants continued to the latest period of the Ceylon monarchy".¹⁰

The Sinhalese kings were absolute rulers whose will was the law of the land.¹¹ They have had state torturers designated as "Wadhakaya"s. Robert Knox, who was a captive of king Rajasinghe II during the Dutch occupation in Sri Lanka (1658-1796AD) gives a vivid description of cruel and inhuman punishments carried out at the Kandyan kingdom.

"He seems to be naturally disposed to Cruelty: For he sheds a great deal of blood, and gives no reason for it. His Cruelty appears both in the Tortures and Painful deaths he inflicts, and in the extent of his punishments¹², viz, upon whole Families for the miscarriage of one in them. For when the King is displeased with any, he does not alwayes command to

kill them outright, but first to torment them, which is done by cutting and pulling away their flesh by Pincers, burning them with hot Irons clapped to them to make them confess of their Confederates; and this they do, to rid themselves of their Torments, confessing far more than ever they saw or knew. After their Confession, sometimes he commands to hang their two Hands about their Necks, and to make them eat their own flesh, and their own Mothers to eat of their own Children; and so to lead them thro the City in public view to terrifie all, unto the place of Execution, the Dogs following to eat them. For they are so accustomed to it, that they seeing a Prisoner led away, follow after. At the place of Execution, there are alwayes some sticking upon Poles, others hanging up in quarters upon Trees; besides, what lyes killed by Elephants on the ground, or by other ways. This place is alwayes in the greatest High-way, that all may see and stand in awe. For which end this is his constant practice."¹³

The Dutch were said to have been equally cruel when they conquered the island nation at the initial stages. "A conspiracy against them was discovered at Jaffna and fourteen of the alleged ringleaders were sentenced to death. It was considered necessary to strike terror into the hearts of the disaffected, and horrible punishments were inflicted on the condemned men; three of them were stretched out on wooden crosses laid on the ground, and after being stabbed in the neck and breast, were disembowelled; their hearts were then taken out and laid on their mouths, after which their heads were cut off and exposed in the market-place. A Jesuit was beheaded and eleven others were hanged, their bodies being left to rot on the gibbets."^E

D. Geiger translation 1912, page 74, at lines 88-90

E. Peiris PE. Ceylon and the Hollanders. 1918 . page 1

Some Dutch rulers such as PetrusVuyst (appointed in 1726) were cruel and inhuman in their administration. He began by quarrelling with the civil and military officials, whom he treated in the most imperious fashion; he ended by the infliction of inhuman tortures and murder.^F The Dutch court system operated in the coastal areas of Sri Lanka was also not immune of adopting capital punishment and torturous practices. "The proceedings of the Courts were characterized by serious irregularities, delay and negligence. The system of penal law which prevailed, and which was in accordance with the practice in Europe, was appallingly severe. For instance it is recorded that in 1669 an unfortunate Chetty who had been guilty of what today is regarded as merely a social offence, was sentenced to be hanged, his corpse to be put into a sack and cast into the sea. However, this sentence was commuted, and instead, he was flogged under the gallows, branded, and banished for life. In 1751 a woman named Joana, who was found guilty of slave stealing, was strangled by being tied to a pole, her head was then sundered from her body, which latter was dragged to the public place of execution and stretched on the wheel and left there to be devoured by the fowls of the air.

Breaking on the wheel was not customary, and instead it was usual to crush the thigh-bones of criminals with an iron club. As a rule the death sentence was executed by the gallows and not by the sword; an accused person could not be sentenced to death till he confessed his guilt, and the difficulty this created was taken care of by torturing the man whose guilt was considered proved, till a confession was wrung from him."^G

F. Ibid, p.56

G. Ibid, p. 58

Slavery in Sri Lanka

Slavery is distinguished as one of the worst forms of cruel and inhuman treatment that has existed in human civilization. Many references pointed out the fact that Slaves were present in ancient and colonial Sri Lanka. Though detail documentation of practice of slavery in ancient Sri Lanka is not available it was shown that Buddhist monasteries in medieval times were the largest owners of slaves in Sri Lanka. In the tenth century the lord's officials and the village headmen (kemiyan) were paid for their service by 'maintenance' (divel) lands, as were also the temple slaves and village servants.¹⁴ "..... the prevalence of slavery at monasteries is beyond doubt. According to Cūlavamsa, Silāmegavanna (AD 619-628) granted captives taken in battle as slaves to monasteries, and Aggabodhi IV (667-683), Potthakuttha and Sena I (833-853) provided slaves for the various religious establishments which they founded. The Galpāta-vihāra inscription is even more specific. It mentions that two types of slaves - "hereditary slaves" (anvayāgata) and "bought slaves" (ranvahalin). In fact, it records an actual instance in which slaves were purchased with gold belonging to a monastery. It also lists eighty-three slaves, in groups of families, as having been granted to serve the monastery in various capacities as cowherds, potters and tailors."¹⁵

Slavery is distinguished as one of the worst forms of cruel and inhuman treatment that has existed in human civilization. Many references pointed out the fact that Slaves were present in ancient and colonial Sri Lanka.



Traitors impaled alive in the Kingdom of Sinhale, 1638

The picture purports to depict an event that occurred after the combined forces of the Dutch and Sinhale captured Batticaloa from the Dutch in May 1638. "Some fifty natives who had murdered one of his Majesty's Courtiers were impaled alive. The rest were sold for slaves with their wives and children."

[Source: Michael Roberts. *Sinhala Consciousness in the Kandyan Period 1590s to 1815*. VijithaYapa publications, Sri Lanka, 2004]

History often recounts the grant of men and women slaves with other movable property to temples. The unpublished documents connected with the dedication of land to PepiliyānaVihāra in the fifteenth century show that these slaves were, largely artisans, blacksmiths, potters, lime-burners, and the like, and doubtless the slaves of the tenth century already referred to performed similar duties. The tenants of the king's villages in the early seventeenth century are definitely stated to, have been slaves, and their presence in the royal and temple villages, though long forgotten, accounts for the low esteem in which the tenants on those properties

are still held.¹³ In fact, the Kandyan nation being the slaves of the monarch – slavery was permitted, and practiced to a greater extent throughout the kingdom.¹⁶

Davy in his detailed account on the Kandyan kingdom¹⁷ describes how slavery was applied across the civilian life and the caste system. "Insolvency amongst the Singalese was very cruelly dealt with; slavery was its consequence. The creditor applied to the Dissave or Raté –mahatmeya, and having proved his claim just, and the debtor having acknowledged his incapacity to meet them, leave was granted to the former to make

the debtor and his family his slaves, and to retain them and their offspring in slavery, till payment of the debt were made. The debtor could not be sold, but if he died, leaving his children in slavery, they and their children might be sold. No interest was allowed to accumulate for the original debt, the labour of the slaves being considered an equivalent. In respect to slavery, there was no privileged caste; it was a punishment to which all insolvent debtors were liable. It was not unusual for the Goéewanse to become the slaves of people of low caste; when in danger of this degradation, some chief generally paid the debt and made the debtors his slaves. The state of slavery is of course considered disreputable; by marrying a slave, a free woman would be utterly disgraced.”¹⁷ Davy explored further into the slavery issue and had attempted to quantify the slaves in then Kandyan kingdom. “What the total number of slaves may be in the Kandyan country, no register having ever been kept, it is impossible to estimate with any precision: an intelligent chief, from whom I collected the above particulars, guessed that they amount to about 3000.”¹⁸ Davy was one senior government servant who recommended the colonial rulers to abolish slavery in Sri Lanka.

The Dutch were involved in extensive slave trade across Indian Ocean and it was recorded that 1791 slaves (most probably of non Ceylonese origin) were found in Colombo in 1694.¹⁸ The British continued the slave trade in more vigorous numbers. Although there were no recorded major events of distress or/and uprisings in Asian slave communities during their colonial period many references point out that they were subjected to inhuman living conditions.

It could be seen that in many stages of the ancient and colonial history of Sri Lanka

causing fear and terror among public had been the *modus operandi* of the administrators to maintain their policies and the survival. This practice has been continued in the post independent Sri Lanka by all elected governments up to now. The accuracy of Knox’s description on torturous practices could be verified by the contents of the Kandyan Convention¹⁹ signed between the British rulers and the Kandyan chieftains in March 1815, approximately 145 years after Knox’s departure from Sri Lanka. The 1st section of the Kandyan convention states as follows:

“ That the Cruelties and Oppressions of the Malabar ruler, in the arbitrary and unjust infliction of bodily tortures and the pains of death, without trial and sometimes without an accusation or the possibility of a crime; and in the general contempt and contravention of al civil rights, have become flagrant, enormous , and intolerable;”

According to the section 6 of the convention “every species of bodily torture and all mutilation of limb, member or organ are prohibited and abolished”. The Kandyan Convention 1815 could be considered as the first serious attempt in the recent history to eradicate torture in Sri Lanka. The draftsmen of this convention could well have been influenced by a preceding event witnessed in Europe in 1764 which saw the arrival of a landmark publication, “On crimes and punishments” by Cesare Beccaria. He was an Italian jurist, philosopher and politician who put forward the first modern argument against torture and death penalty. “Every act of the will is invariably in proportion to the force of the impression on our senses. The impression of pain, then, may increase to such a degree that occupying the mind entirely, it will compel the sufferer to use the shortest

H. Davy J. An Account of the Interior of Ceylon. 1821. pages 184,185

method of freeing himself from torment. His answer, therefore, will be in effect, as necessary as that of fire or boiling water; and he will accuse himself of crimes of which he is innocent. In effect this implies that the very means employed to distinguish the innocent from the guilty, will most effectually destroy all difference between them."²⁰ Beccaria effectively nullified all reasoning behind the justification of torture in the criminal justice system. However it is regrettable to note that even almost after two centuries of legislative and institutional developments Sri Lanka has still not shown a significant attempt to intervene and prevent torture in civilian life.

REFERENCES

1. Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment Act, No. 22 of 1994
2. National Human Rights Action Plan of Sri Lanka 2011
3. Legislative Enactments of Sri Lanka, Prevention of Terrorism Act No. 48 of 1979
4. Cooke MC. Rebellion, Repression and the Struggle for Justice in Sri Lanka. The Lionel Bopage Story. Agahas publishers Colombo, 2011. p.186,
5. Amerasinghe ARB. The Legal Heritage of Sri Lanka. SarvodayaVishvaLekha Publishers, Ratmalana, 1991
6. De Zoysa P & Fernando R. Methods and sequelae of torture. A study in Sri Lanka. Torture Vol. 17 No.1, 2007, p. 53
7. Geiger W. The Mahāvamsa or The Great Chronicle of Ceylon. Oxford University Press London, 1912, p. 73
8. Wijesinha LC. The Mahāvamsa. Part I. Government Printer, Colombo 1889, p. 42
9. Peiris PE. Ceylon and the Portuguese. American Ceylon Mission Press. 1920. p. 9
10. Tennent JE. Ceylon An Account of the Island. Vol.I London,1859, p. 500
11. Perera SG. A History of Ceylon for Schools. The Associated Newspapers of Ceylon Ltd. Colombo, 1943, p.2
12. Peiris PE. Ceylon and the Hollanders. American Ceylon Mission Press. 1918, pp.26,27
13. Knox R. An Historical Relation of the Island Ceylon. London 1681, Chapter II Part II, p. 39
14. Codrington HW. A Short History of Ceylon. Macmillan and Company Ltd. London 1929. p. 46.
15. Gunawardana RALH. Plough and Robe. Monasticism and Economic Interest in Early Medieval Sri Lanka. University of Arizona Press, 1979.p.121
16. Sirr HC. Ceylon and the Cingalese. Vol. I London 1850. p. 283
17. Davy J. An Account of the Interior of Ceylon. London.1821. p. 184
18. Vink M. The Words Oldest Trade. Journal of World History, University of Hawaii Press, 2003, Vol. 14, No. 2, p. 169
19. Kandyan Convention, 1815 - Legislative Enactments of Sri Lanka 1980, Vol. XX, pp310-316
20. Beccaria C. An Essay on Crimes and Punishments. Translation of original fourth edition. 1992. Boston, Chapter 16



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EMPOWER THE POLICE TO REDUCE TORTURE ON SUSPECTS

BY DR. THRISHANTHA NANAYAKKARA

King's Collage, London

"We will have to repent in this generation not merely for the vitriolic words and actions of the bad people, but for the appalling silence of the good people."

- Martin Luther King Jr., American civil rights activist, 1929-1968

Whenever I drive through Delkanda junction, the tireless work of the traffic police officer reminds me the value of law enforcement to productivity and peace in the society. Standing upright in the hot sun, showered with dust full of Lead molecules and inhaling toxic gases – these officers were regulating traffic and saving time for the nation's workforce. The service the police

force delivers to the normal citizens of the country is invaluable and indispensable. It is for this very reason I wish to point out a specific area in which police training in Sri Lanka has been somewhat deficient and in so doing contribute to enhancing the good work these policemen do.

One summer evening in Cambridge, Massachusetts, I watched the documentary "No More Tears Sister" written and directed by Helene Klodowsky and aired on the PBS Point of View series in 2006. The group who had watched that documentary with me wanted to understand the subtle causes behind two armed uprisings that had devastated Sri Lanka. Although many

causes such as poverty, conflicting political ideologies, racism and widespread paranoia were presented as crucial factors, I was struck by a simple statement made by a living witness that was caught on footage. I do not remember the exact words, but the witness said, "Upon graduation from arms training, the LTTE gave me a cyanide capsule to be swallowed in the event of capture. They told me it was better to die than to live and be tortured." It is likely that the LTTE would have benefitted from these suicides – organizational secrets would not be leaked to the Government during interrogation, for instance. Yet the LTTE leadership had concrete grounds upon which to convince its membership of the brutal and horrific treatment that met prisoners taken by the government.

The same witness talked about the LTTE cutting off medical supplies to a refugee camp. He said, "They (the LTTE) said that they needed at least five hundred more dead people to present a strong case to the international community". Such was the civil war that innocent civilians and LTTE cadres themselves were pawns and victims in a game that had spun out of control. For the government and government affiliates (law enforcement agencies) to be complicit in such atrocities, despite their legal and moral duty to the protection and well-being of their citizens, is a great tragedy indeed.

Sri Lanka is not the only country wherein police resort to torture. In a highly publicized case in the United States, a person called 911 crying, "I have been beaten, I am bleeding..." (again, these are not the exact words). The officer on the other end of the line asked, "Where are you?", to which the victim replied, "in police custody...". The difference between this case from the United States and

the situation in Sri Lanka is that the incident was subsequently exposed in the media, circulated amongst the American citizens and subjected to intense public criticism. Importantly, prosecution and punitive action was taken against the offending officers for abusing the privilege and power given them as police authorities. The significance of such a negative feedback loop in a country's judicial system is that it corrects the original malaise by emphasizing rule of law and the equality of all before the law. This has the effect of justifying and increasing the confidence of every citizen in the ability of the constitution and statutes to protect them and their rights and fundamental freedoms. Once such trust and confidence is betrayed and constructed systems proven inefficient or corrupt, the country devolves into lawlessness and rebellion, with each man thinking first and foremost for himself and disregarding all authority.

" Mechanisms for witness protection should be improved – In the prevailing environment of fear and distrust between the government and the populace law enforcement agencies have themselves been emasculated. Political authorities openly threaten journalists, activists and other witnesses who could potentially expose their unlawful acts, making the police unable to credibly protect these important witnesses or begin to prosecute the powerful individual or group according to their mandate. "

In a recent documentary sponsored by the Asian Human Rights Commission (AHRC), a prominent Sri Lankan human rights advocate said that in all three major postcolonial uprisings in Sri Lanka, the rebel groups had managed to effectively channel public hatred and resentment towards a corrupt and oppressive police against the authorities. The documentary presented statements from recent victims of police torture and powerfully presented a argument wherein the state is pathetically counterproductive, even self-defeating, in inciting popular outrage through its cruel and oppressive acts against its people. It was clear that the desperation, frustration and anger the general public felt was closely linked to the methods employed by the police in enforcing the law.

While the occurrence of such custodial violence may not be distributed evenly throughout Sri Lanka, and while not all police officers are involved in such inhuman treatment of suspects and prisoners, the confronting reality that all victims of torture occupy lower and middle income groups and possess not political connections is cause for alarm. The obvious partiality of the police toward criminals with political connections negates the principles of rule of law and equality of all before the law. If anything, convicts who had been part of the government bureaucracy or were themselves law enforcement agents should be punished more severely because they had a legal obligation to protect the rights of others as well as a duty to be moral exemplars as leaders of a nation.

I may not be a legal expert or have experience in law enforcement. Yet as a concerned citizen who has the constitutional right to question and be protected by the law of the land, I

am myself morally compelled to suggest the following possible remedies to the current culture of partiality and violent impunity:

1. Re-establish independent police commission – The annulment of the independent police commission under the 18th Amendment of the Sri Lankan Constitution is a step in the wrong direction. An independent, government-endorsed, -directed and -funded commission is necessary to review the comprehensiveness of the country's police training courses. All vestiges of colonial practices of law enforcement have to be done away with and fresh practices strengthening the notion of citizenship and rule of law should be conscientiously planned and actively implemented. The independent police commission should be accorded sufficient power and a well-defined legal mandate to ensure law enforcement practices become more transparent and accountable to the Central Government and to the public.
2. Increase emphasis on the use of forensic science and other more advanced methods of investigation in collaboration with local universities to replace crude and unscientific practice of torture, which yields unreliable results/evidence – The police should be allocated funds and given instructions to develop technologies and skillsets to improve the efficiency and accuracy of investigations and to present evidence when proving or disproving a case. This could be achieved through collaboration with local universities and through courses/seminars by foreign experts, with whom the police could

regularly consult on difficult cases. There has been a recent BBC radio-4 interview about the use of technology in investigations into a mass murder in Europe wherein the chemical analysis of the pollen found on the corpses revealed soil and weather conditions at the time and place of the murder. This subsequently supported the hypothesis that the murder had taken place in a different place from where the bodies had been found. It is paramount that in this rapidly progressing world where technology affords more accurate methods of determining the true culprits the Sri Lankan police stop their cruel, inhuman and simply inaccurate practice of torture to derive evidence for a conviction.

3. Mechanisms for witness protection should be improved – In the prevailing environment of fear and distrust between the government and the populace law enforcement agencies have themselves been emasculated. Political authorities openly threaten journalists, activists and other witnesses who could potentially expose their unlawful acts, making the police unable to credibly protect these important witnesses or begin to prosecute the powerful individual or group according to their mandate. According to Wikileaks, government ministers are suspected to be playing pivotal roles in the country's drug trade. The 18th Amendment to the Constitution has made it increasingly unlikely that law enforcement can or will take credible action on these centres of political power. In as much as the average citizen lives in fear of torture when in the custody of the police, the police themselves are fearful of a government founded entirely on the exercise of fear and impunity. The lack of judicial independence and the systemic victimisation of the agents entrusted with upholding law and justice is a serious failing in a system already precariously poised on other fundamental fault lines – rife poverty, racism, environmental degradation, physical displacement of people and conflicting political ideologies, all of which were exacerbated by the only recently concluded civil war. There is mounting public pressure for adequate mechanisms to be introduced for witness protection that will not only reduce and prevent future practice of torture but close criminal cases and restore the legitimacy and dignity of the police force.
4. The public should not join in the victimisation of the police by a corrupt political leadership – The public have a duty to empower their local police through regular and productive dialogue through various civil institutions and under the leadership of community leaders. The public should educate themselves about the challenges the police also face in discharging their duties and do their best to demonstrate support for and aid these efforts. In the absence of that popular social affirmation, the police may be more easily influenced and manipulated by corrupt politicians. Sometime during my childhood, a United National Party (UNP) representative of our constituency in Galle, who had been minister of a powerful portfolio at the time, gave me a taste of the extent of this unlawful and

morally reprehensible manipulation of law enforcement agents. I had been but a school boy at the time, and my father, being a strong supporter of the UNP, used to visit this minister's residence often, and sometimes I went along. One night, a police officer was summoned, and I remember that minister reprimanding the officer in very strong language, warning him against arresting "innocent people" making a small living out of distilling liquor (Kasippu distiller), although this had been outlawed. I observed the frustration on the face of the police officer, yet he finally bowed to the pressure and promised not to arrest the locals again. Appalled and disgusted by such injustice, I asked my father when we were on our way home why they were not doing anything to correct the gracious minister, or why the minister had not passed a new law to legalise Kasippu distilling, for at least then the police officer would be aware of and could uphold that law. My father replied very simply that the practice of politicians intimidating the police was not a new practice, and that previous governments had done the same. In a video recently published on YouTube, Minister Wimal Weerawansa somehow manoeuvred the country's Secretary of Defence into reprimanding a senior police officer for enforcing law to maintain order in a protest rally order by Minister Weerawansa himself. In other rallies, protestors were shot with live rounds. However, in a recent interview broadcast in an official state media channel, the Defence Secretary asserted that the police officers had been given clear instructions to

implement the law equitably, and that all blame should fall upon the police if there are discrepancies or if the police succumb to pressure from political actors to be partial in enforcing the law. Such partiality extends to practices of torture.

I was as a child and now as an adult, shocked, saddened and disappointed at the state of affairs in my country, where good people such as my father, and the police officer who had honourably discharged his duty to uphold the law, were silent in the face of such oppressive corruption and impunity in the government bureaucracy. Because I love my country and believe justice and peace are possible, I was and am determined to do my part in breaking this silence as the first of many small steps the nation can take toward institutional reform. I call upon my fellow patriots and all who are concerned about such shortcomings in the Sri Lankan government to join me in denouncing the disempowerment and manhandling of the police by a corrupt bureaucracy. To eradicate torture, restore the independence, impartiality and morale of law enforcement and shore up legitimacy for themselves, the Sri Lankan government must take the initiative to enact laws returning certain powers to police and guaranteeing their non-interference in the judicial process. Popular sentiment publicly expressed will help sway the hand of the government. While it may take time to unlearn the prevailing culture of impunity and to earn the trust of a community hardened by years of physical and institutional abuse, I invite you to speak out with me. In so doing, we dream together of a Sri Lanka free from the inhumanity and injustice.



Caste-based discrimination

Never compare caste-based discrimination and slavery.....

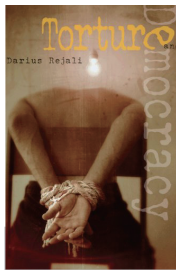
Caste-based discrimination is worse than slavery....

A slave can win her/his freedom, whereas caste follows you from the womb to grave

**Speak against all forms of
DISCRIMINATION**

Asian Human Rights Commission

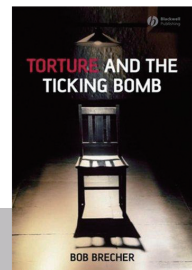
BOOKS ON TORTURE AND DEMOCRACY



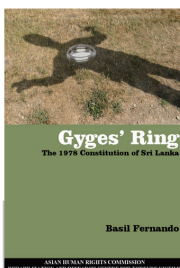
Torture and Democracy is an unrelenting examination of the use of torture by democracies in the 20th century. As democracy, human rights, and the free press blossomed after World War II, so did the market for "clean" torture techniques that leave no evidentiary scars, such as the use of drugs, stress positions, and waterboarding. Rejali reveals the most controversial Western intelligence-gathering techniques, explains their origins, and questions if their use actually hinders the torturer's ability to gather credible intelligence.

Torture and Democracy, Author: Darius Rejali, Hardcover: 880 pages, Publisher: Princeton University Press (2007) Language: English, ISBN-10: 0691114226, ISBN-13: 978-0691114224, buy from amazon

Torture and the Ticking Bomb is one of the most disedifying sights on the public scene in the early years of the 21st century has been the spectacle of serious intellectuals rushing to justify torture. This is especially disturbing in a context in which governments persistently employ torture, albeit mostly with euphemism and secrecy, in the "war on terror".



Torture and the Ticking Bomb, Author: Bob Brecher, PPB: 122 pages, Publisher: Blackwell Publishing (2007) Language: English, ISBN : 9781405162029, buy from amazon



Gyges' Ring -- The 1978 Constitution of Sri Lanka is the most comprehensive study of the 1978 Constitution to-date. It is a contribution to the study of constitutional law and criminal law in Sri Lanka as well as the politics and history of the country. The author traces the origins of the 1978 Constitution and its impact during the last 33 years.

Gyges' Ring -- The 1978 Constitution of Sri Lanka, Author: Basil Fernando, PPB: 177pages, Publishers: The Asian Human Rights Commission and Rehabilitation and Research Centre for Torture Victims (2011) Language: English, ISBN : ISBN: 978-962-8314-51-5, buy from amazon or email books@ahrchk.net

TORTURE
ASIAN AND GLOBAL PERSPECTIVES

TORTURE FREE SOCIETY

TORTURE IS MORALLY WRONG, CORROSIVE TO A FREE SOCIETY - AND INEFFECTIVE

PHOTO BY WILLIAM GOMES



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